

## CHAPTER - 2

### RESOURCES OF URBAN LOCAL BODIES

#### MUNICIPAL CORPORATIONS

##### Property tax:

**2.2.1.** The own tax revenues of the Municipal Corporations are detailed in the earlier chapter, and of them Property Tax is the major source of Revenue. The Property Tax belongs to the class of general benefit tax. In Tamil Nadu, Municipal Corporations are given powers to levy property tax under the respective City Municipal Corporation Acts.

**2.2.2.** The Property Tax yields the major income. The average income from this source accounts for one-third of the total revenue and 90% of the total tax revenues and Rs.106 per capita out of the total per capita income of Rs.338/-. There are about 9.03 lakhs assesseees in all these Corporations as below:

**Table 2.1. Property Tax - Details of Assesseees - Municipal Corporations**

	No. (In Lakhs)	No. %	Demand Yield Rs. in Crores	%
Residential	7.21	79.84	59.37	58.00
Non-Residential	1.76	19.50	38.37	37.48
State Govt.	0.04	0.44	3.69	3.60
Central Govt.	0.02	0.22	0.94	0.92
<b>Total</b>	<b>9.03</b>	<b>100.00</b>	<b>102.37</b>	<b>100.00</b>

**2.2.3.** This is a buoyant tax for these Local Bodies. But the inter se variation among the Corporations is very wide. While the per capita income from Property Tax in Coimbatore is Rs.281 in 1993-94, it is Rs.57.91 in Tirunelveli. These variations are likely to be due to reasons like adoption of different rates or difference in basis or pattern or method of assessment. If a common pattern of assessment is ensured, there is adequate scope for improvement. Another aspect for improvement relates to the tax performance which is dealt with separately. It is interesting to note that about 80% of the total assesseees are residential and 19.50% commercial (non-residential). State and Central Government assesseees form only 0.66% of total assesseees. The residential assesseees (80%) contribute about 60% of the total demand while non-residential (commercial) (19.50%) contribute 38% of the total demand. The contribution from Government properties is

insignificant. The average tax per assessee in absolute figures realised from non-residential assessees, is more than 2.65 times over the contribution from residential assessees. This indicates that efforts to enforce higher level of taxation from non residential assessees are already available.

**2.2.4.** The collection performance of the demand contributes for the variation in the income among the local bodies.

**Table . 2.2 PROPERTY TAX : DEMAND AND COLLECTION (1991/92 TO 1993/94)**  
(Rs.in lakhs)

Corporation	1991/92		1992/93		1993/94	
	Demand	Collection	Demand	Collection	Demand	Collection
Coimbatore	1409.64	751.67 (53.32)	1655.10	928.08 (56.07)	2542.64	1188.31 (46.74)
Chennai	5957.89	3700.32 (62.11)	6401.86	3940.54 (61.55)	6545.98	4908.65 (74.99)
Madurai	2788.12	695.82 (24.96)	3016.92	1258.06 (41.70)	3053.66	949.02 (31.08)
Salem	934.58	415.19 (44.43)	886.33	321.05 (36.22)	1076.69	460.36 (42.76)
Trichy	812.17	343.30 (42.27)	906.69	431.89 (47.63)	1102.99	554.18 (50.24)
Tirunelveli	288.40	166.60 (57.77)	349.03	192.03 (55.02)	40.16	20.99 (52.27)
All Corporations.	12190.79	6072.90 (49.82)	13215.93	7071.66 (53.51)	14362.11	8081.52 (56.27)

(Figures in the parantheses indicate percentage collection in demand)  
Note: Demand includes current demand and arrears in the previous year.

**2.2.5.** It is noticed that the collection performance in all the Corporations except Chennai needs substantial improvement. Even in Chennai, the collection performance is ranging between 60 and 75 per cent. With full fledged tax collection administrative machinery available in these higher level Local Bodies, collection percentage should be very high. It evidently indicates that system and procedure for collection need reorientation with modern techniques. The Property Tax is definitely a most promising source to those local bodies and an in-depth study will provide for better systems to increase the income substantially.

**2.2.6.** The Property Tax is accompanied by a number of service taxes, viz, water supply, drainage, lighting, education, scavenging etc. at different rates as decided by the respective Local Body. The details in percentage to Property Tax are given below:

**Table 2.3. COMPONENTS OF PROPERTY TAX (in Percentage) (1991-92)**

Components of Property Tax	Coim- batore	Chennai	Madurai	Salem	Trichy	T.veli	All Corpns
General Purpose Tax	15.78	59.27	37.47	12.79	17.29	31.08	41.77
Drainage Tax	24.99	0	19.77	10.77	20.17	0	9.18
Education Tax	6.58	22.18	18.43	14.85	14.41	18.23	17.42
Library cess	2.24	3.71	3.65	4.74	7.78	6.63	3.73
Lighting tax	0	14.83	0	8.93	11.53	9.20	9.38
Scavenging tax	0	0	7.49	7.38	8.65	9.20	1.90
Water tax	50.43	0	13.18	40.53	20.17	25.66	16.64
<b>Total</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>

**Table 2.4. COMPONENTS OF PROPERTY TAX (in Percentage)**  
(Average for 1991-92 to 1993-94)

Components of Property Tax	Coim- batore	Chennai	Madurai	Salem	Trichy	T.veli	All Corpns
General Purpose Tax	24.30	58.98	36.99	12.89	17.29	30.35	43.20
Drainage tax	19.57	0.00	20.06	10.48	20.17	0.00	8.46
Education Tax	7.07	22.44	18.34	14.59	14.41	18.10	17.55
Library Cess	2.51	3.76	3.82	6.46	7.78	7.11	3.93
Lighting Tax	0.00	14.83	0.00	8.76	11.53	9.48	9.09
Scavenging Tax	0.00	0.00	7.41	7.23	8.65	9.48	1.98
Water Tax	46.55	0.00	13.38	39.58	20.17	25.47	15.79
<b>Total</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>	<b>100.00</b>

Water and Sewerage Tax in Chennai is levied and collected by Chennai Metropolitan Water Supply and Sewerage Board.

**2.2.7.** The rationale in fixing the percentages for the components also needs further study as the income derived from the respective component should have a match to cover these services. Since the existing rates are being adopted for several decades depending on the conditions and priority of services obtained in earlier days, they need a fresh look. Since these service taxes are treated as components of property tax, they also get waived while tax concessions/exemptions are considered. There is no justification for including these service taxes while giving exemption/concession. This aspect also

needs a de novo examination especially when the principle of cost recovery is thought of through taxes and user charges. The deficiencies in the existing pattern of assessment are discussed below to evolve a better, simpler and a more acceptable common pattern.

**2.2.8.** The levy of property tax is based on the gross annual rental value of the property, obtaining in a free market. Due to the operation of Rent Control legislation in Cities, the free market rent has almost ceased to exist and the Municipal authorities are expected to value the property for tax purposes on the basis of fair rent as prescribed in the Rent Control legislation, supplemented by various judicial pronouncements. This situation has virtually resulted in freezing the property tax base. In order to get away from this, various alternative bases have been suggested in different studies and forums namely, capital value, site value, area measurement value. However, the capital value base also assumes free market rate as in the case of rental value. The adoption of site value system except in the cases of developed areas or new creations is fraught with difficulties. The adoption of area measurement method has also the possibility of introducing a large element of subjectivity in its impact. In the absence of a suitable and effective alternative valuation base, there is need for not applying rent control legislation against the concept of notional rental value for taxation purposes. The freezing of rent under Rent Control Act has caused heavy revenue loss to the local authorities.

**2.2.9.** In Tamil Nadu, the Municipal Corporations adopt the annual rental value basis for the purpose of arriving at their tax assessment. In Chennai and Coimbatore Municipal Corporations, a system of area-linked rental unit value system based on the plinth area of the building, with provision for addition in taxes for the type, nature age and location of the property. The method of adopting ARV in common to all the areas was subject to serious objections and criticisms, since the value of the properties throughout the City is not equal, so also the rental value. The developments in all the areas are also not equal. The properties located in places of affluence and other commercial areas fetch more price and rental than those in other residential areas. Applying the same standard for properties in different localities within a city has created a lot of difficulties in implementing tax provisions. Further the concept of adopting notional rental value has also given scope for many disparities and deficiencies even within the same locality due to discretion of the tax levying authorities. The adoption of the new method viz., adopting the rental value with reference to plinth area, nature, type age and location of the property has given a better fairness and transparency in assessment and more acceptability from the public, yielding better income from property tax.

**2.2.10.** The Chennai corporation has divided its area into zones. Depending upon the geographical location, availability of various civic amenities, accessibility to market, shopping complex, schools and colleges, hospitals and transport facilities, the rent for the building in these areas differs from place to place. A pilot survey was conducted street by street in each area. As a result of such study, a basic rateable value per square foot was arrived at for each street in each area, keeping in mind the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act. Two different types of basic rates were arrived at depending upon the usage of the building, namely, residential or non

residential. The basic rate for non - residential ranged from Rs.2 to Rs.6 per square foot, while the basic rate for residential ranged from 40 P. to Rs.1.60 per square foot. The corporation prepared a directory of such basic rates street by street in each area and the rates finally prescribed were adopted while revising the tax. The Chennai Corporation did the quinquennial revision, in a cyclical way by taking a Zone consisting of one fifth of the total divisions each year. This has helped them to arrange for an intensive door to door survey, test check, and also super check by the higher officials. The revised rate per square foot was indicated in a Directory and published and objections heard. The property owners/occupiers were requested to file a Property Tax Return and it is stated that about 75 % of the property owners had responded to the notification promptly and only the remaining 25% were defaulters, in respect of whom the assessors have made spot verification and filed the returns based on such verification.

**2.2.11.** In respect of Cinema Theatres, Hotels, Lodges, Kalyana Mandapams, Nursing Homes and Hostels different methods of assessment were followed.

**2.2.12.** The revised procedure based on accepted principles ensured more transparency and fetched three times more than the earlier level of tax income. The revision had good impact and exhibited an increase of property tax of more than Rs.10 crores between 1992-93 and 1993-94.

**2.2.13.** The Corporation of Coimbatore has also adopted a plinth area based square foot rate and the plinth area basic rate fixed is as detailed below:

1. Residential houses and Educational Institutions. Rs.2.50 per s.ft.
2. Industrial sheds. Rs.4.00 per s.ft.
3. Hospitals, Marriage Halls etc. Rs.5.00 per s.ft.
4. Offices, Restaurants, Cinema Theatres Rs.6.00 per s.ft.
5. Star Hotels Rs.8.00 per s.ft.

Unlike the Chennai Corporation, where rebates were given on the basic rate, Coimbatore Corporation added further surcharges to the basic rates fixed for the location, nature and age of the building. No concessions were given for owner occupation. It is learnt that in the method adopted by Coimbatore Corporation some deficiencies leading to the disproportionate assessment between areas and among the different types of the usage have been noticed by the Corporation. The revised method adopted by the Coimbatore Corporation has yielded a substantial increase in the per capita income of property tax from Rs.190 in 1992-93 to Rs.281 in 1993-94. In Chennai Corporation, the increase in the per capita income was from Rs.98 to Rs.122.

**2.2.14.** It is understood that the Madurai Corporation is also implementing a similar system.

**2.2.15.** The principles followed by the Corporations more or less fall in line with those recommended in the composite area linked system for property tax reform suggested by the Times Research Foundation, Urban Studies Centre, Calcutta and also adopted and tested in Andhra Pradesh, Bihar and Calcutta. The system is now being suggested in Karnataka State also. Immediate action is required for tax mapping of the buildings in the entire area to ensure that all the properties within the area are brought under the tax map. This kind of area linked system appears to be closer to real life situations, besides enhancing the tax yields and ensures greater equity for distribution of tax burdens among different individuals, areas and uses and less disputes. Since the three Corporations have already got experience by introducing the new "Area wise unit value system" and have succeeded in achieving transparency, public acceptability and better yield, a similar system can be introduced in other Corporations and other tiers of local bodies also.

**2.2.16.** However, in order to ensure a common approach instead of each one following their own method of assessment, a regulation can be made by the Government by introducing suitable amendments to the relevant Acts as well as to the Rules made thereunder. The system is likely to have more acceptability because distinctions have been made between areas and buildings coming under residential and non-residential, and even in this concept, the type, nature and amenities available are also taken into consideration and suitable rebate / concessions are allowed. Besides, the publication of the rates adopted for the areas will ensure transparency among the public and even at the early stage, objections, if any, could be heard and finalised before going in for actual taxation instead of making the assessee to take recourse to individual tax revision petitions. It is also suggested that in all these cases of assessments, a Central Valuation Cell may be formed with people qualified in making such survey and assessment, so that there will be uniformity in all the areas. There is no need for review of the assessment by the Executive every time, since the general objections on method of fees are settled even at the time of settling rates in the various locations.

**2.2.17.** Appeal to Tax Appeal Committee should be allowed to remove defects, if any, noticed in such assessment by the Appeal Committee.

**2.2.18.** Wherever the residents want to appeal further, instead of filing suit in civil courts, a Municipal Assessment Tribunal can be proposed to deal with such appeals to ensure uniformity in decisions and also to see that the cases are disposed of quickly. If a separate Special Tribunal cannot be appointed immediately, the judicial authority at the district level can be made as the Tribunal for taxation matters in the initial stages and based on the experience this could be developed later by a separate Assessment Tribunal for the local bodies as a whole and if necessary the cost of tribunal can be met in common by all local bodies in the area.

**2.2.19.** While classifying the areas, the Calcutta Municipal Corporation Act 1980 has proposed a system whereby all the streets in Calcutta are required to be classified in terms of arterial roads, sub arterial roads, collector roads, local roads and

pedestrian pathways. The types of roads are also taken as one of the parameters for deciding the location of the area and also the category of the street in the respective area.

**2.2.20.** The Task Force on Augmentation of Resources appointed by the State Finance Commission has also made suggestions for similar classification of the entire local body into six categories, as under:

1. Affluent Area with all amenities.
2. Affluent area without one or more amenities.
3. Middle income area with all amenities.
4. Middle income area without one or more amenities.
5. Low income area with all amenities.
6. Low income area without one or more amenities.

To decide the category of the area it was suggested that the width of the road, namely arterial, sub-arterial or interior roads may be taken as one of the parameters. The basic rateable value per sq.ft. for all the six categories as indicated above in respect of Chennai and other Corporations and additional rateable value to be added to the basic rateable value depending upon the type, use and age of the building were also suggested.

**2.2.21.** As against the existing range of tax in the Chennai Corporation of 6.25% to 11.5% per half year, a fixed rate of 8.33% per year which is equal to one month's rent was also suggested to the State Finance Commission. The principle indicated here is a little different from the one adopted by the Chennai Corporation where the question of dividing the area into six categories has not been followed. But a sample survey has been done in each location, street by street, and the unit value for the rental for each street in an area has been arrived at, taking into account the real value obtaining in that locality. Though a survey is needed, it will have more acceptability than the adoption of uniform unit value for all the categories in all the areas. A detailed study will therefore have to be made, before arriving at the final method to be adopted.

**2.2.22.** However, the switching over from the present annual value system to the area linked unit value system may be recommended by the State Finance Commission to ensure better acceptability to the people and more revenue yield for the local body.

**2.2.23.** A revised tax structure is recommended by State Finance Commission after taking into account the various rates and methods adopted in the three Municipal Corporations and also the recommendations made by the Task Force. The details are found in Appendix No. 11.

#### **2.2.24. Service Tax Component:**

On a perusal of the components of the service tax accompanying the property tax, different rates are levied by different local bodies. In Chennai Water tax and sewerage tax are levied by Metro Water Board. As has been observed earlier, the rates as well as the priorities were fixed several years before, depending upon the conditions then prevailing. The provision of protected water to all people, the provision of street lights for all the areas - minimum of tube lights and sodium vapour lamps for important areas - has become a policy compelled from higher level Governments and also on account of the aspirations of Public. There are cases where components for drainage and scavenging have been included. The scavenging tax was intended, according to the Act, to provide private scavenging from individual houses. This system has been mostly abolished even in Municipal areas on introduction of septic tanks and low cost sanitation schemes. New houses constructed are generally provided with septic tanks or are connected to the drainage system of the local body concerned. Regarding Chennai Corporation the water and sewerage taxes have been separated from the local body's purview and they are being collected by the Chennai Metropolitan Water Supply and Sewerage Board and the entire scheme of provision of infrastructural facilities as well as maintenance and supply of water is maintained by the Chennai Metropolitan Water Supply and Sewerage Board. In other Corporations, the entire facilities are looked after by the Municipal Corporations concerned. Study of the amount realised by way of general purpose tax and service tax component, indicates that about 47% of the tax goes towards the service tax. In short, Components of general purpose tax and the service tax almost share equally the amount collected by way of Property tax. On a further study of the actual amount realised in the five Corporations by way of various service taxes and the expenditure connected with those services in the revenue account, they are not uniform and there are variations among the various service expenditure concerned. In certain cases the expenditure is much more than the tax component and in certain other cases, the expenditure is below the level of taxation. Instead of dividing the service tax separately for each item, the total property tax may be divided into two parts, one for general purpose and the other for service purposes, with flexibility for utilising the income realised from the service tax to the service which has got more priority in the area. This type of dividing the tax into two parts will also enable the local body to exempt the buildings which are now coming under the exemption category from the payment of general purpose tax alone and to collect the portion of service tax. There can be no objection to this course even from the presently exempted assesseees including the Government of India. This will also enable the local body to collect and earn service tax from all the assesseees.

**2.2.25.** The user charges will be related to only the quantum of special service done to individuals like water supply or other benefits directly delivered to those individuals who need such services at their doorsteps for which it is necessary to have enabling provision in the Act to ensure cost recovery of Services provided and maintained. This is necessary in the context of inadequacy of the component taxes to take care of both Provision and maintenance of the services as envisaged in the provisions of the Act.



**2.2.26. Exemptions:** At present, exemptions are granted under the provisions of the Acts and Rules in relation to specific types of buildings. The exempted properties are:

1. Properties having annual rental value below Rs.180.
2. Buildings belonging to charitable and religious institutions.
3. Buildings belonging to educational institutions (only for schools) and not for hostels.
4. Buildings classified as monuments of attraction.
5. Buildings belonging to Central Government. (They are levied service charges)

The properties of the State Government are levied property tax on a par with non-residential properties in the area. The details of exemption in Municipal Corporations are as below:

**Table 2.5 Property Tax - Exempted Properties and Expected Demand as on 31.3.94.**

Corporation	Details	ARV				Total
		Below Rs.180	Charity & Relig.	Educat. Inst.	Monument	
Coimbatore	Assesseees	4787	45	153	0	4985
	Exp.Demand	1.36	18.57	94.96	0	114.89
Chennai	Assesseees	n.a.	702	1899	n.a	n.a
	Exp.Demand	n.a	n.a	n.a	n.a	n.a
Madurai	Assesseees	n.a	45	369	2	416
	Exp.Demand	n.a	0.16	10.13	n.a	10.29
Salem	Assesseees	12716	152	43	0	12911
	Exp.Demand	2.79	n.a.	n.a.	n.a.	n.a.
Trichy	Assesseees	2595	6	73	2	2676
	Exp.Demand	0.28	n.a.	n.a.	n.a.	n.a.
Tirunelveli	Assesseees	n.a.	25	83	43	151
	Exp.Demand	n.a.	0.15	19.52	0.35	20.01

Note: n.a. means not available; Exp.: means expected demand in rupees.)

There have been objections to the grant of exemptions to various types of buildings which are classified as belonging to charitable and religious institutions or to educational institutions. The Hospitals or dispensaries which are run by some institutions classified as charitable institutions are now levying fees and they should not be allowed any such concessions or exemption from paying property tax due to the local bodies. Similarly, in the case of educational institutions also, there have been representations from the local body that the schools which levy fees and also the nursery and kindergarten schools which have a mushroom growth and collect hefty fees and donations from the students should not be allowed any concessions. The original purpose of giving such concessions and exemptions to educational institutions should have been mainly with the intention of involving private individuals and institutions in the field of promoting education in view of the difficulties faced by the Government to open schools for meeting the requirement of people from its own funds. To encourage private enterprise to enter the field of education, these concessions were made available. Even today it cannot be said that the Government is in a position to cater to the entire need of the people by opening schools or colleges to the extent necessary. So the private participation is very much necessary and unless some concessions are made available, there may not be much response from that segment. However, the total exemption from taxation is not equitable since these institutions avail all the civic facilities made available by local bodies like roads, lighting, water supply etc. The service tax component of the property tax should not be exempted even if general purpose tax is exempted. As a preliminary step, instead of total exemption, concession may be given from the levy of general purpose tax and restrict the levy to service component of the tax alone .

**2.2.27.** In the case of Industrial Estates concession on Taxation is now being given. This concession should be available only for a specific period of 5 years on par with the moratorium period for taxes. Thereafter concession on service tax component can be given but not on the general purpose tax.

**2.2.28.** In the case of Central Government properties also, the principle is 'not to levy' property tax. The Government of India have no objection for meeting the service charges for the facilities provided by the local bodies. The mere levy of water charges for the supply of water will not be adequate since the local body has to incur heavy expenditure on providing the infrastructural facilities and only thereafter, supply charges arise. Service Tax component is intended to cover the cost of provision of infrastructural facilities in the area in common to all the localities. There is no justification for exempting this claim in respect of Central Government buildings as in the case of educational and other charitable institutions indicated earlier. Hence these buildings may also be subjected to the levy of service tax, even if the general purpose tax is exempted from being levied on them. It is seen from the statistics gathered that the loss of tax revenue from the educational institutions is roughly Rs.1.25 crores in the six Corporations alone. In the case of charitable institutions, it is about Rs.19 lakhs per year in the Corporation area. At least 50% of the amount can be realised if the total exemption is converted into a concession in respect of general purpose component of the property tax.

**2.2.29.** The Public Sector Undertakings of the Government of India are also claiming exemption from levy of property tax in respect of the buildings owned by them on the ground that their buildings would also fall under the category of Central Government properties. Recently the Apex Court has decided this issue in the case of International Airport Authority of India and has held that the exemption given in the Constitution of India will be applicable only to the buildings belonging to the various departments of the Government of India and will not be applicable to the public sector undertakings or other commercial ventures of the Government of India. The local bodies will have to take action for the collection of the property tax from this category of assesseees. While doing so, there is also another claim that these organisations have own provision for services within their areas, and hence they are not liable for taxation by the local body. The question of internal services alone will not be a criterion, since the location and the area in which these properties are situated are provided with common basic amenities and facilities by the local body concerned and any approach road or way to the buildings of the public sector undertakings will have to pass through the normal infrastructural facilities provided by the local bodies. At best, the public sector undertakings may request for non-levy of user charges, but cannot avoid the levy of property tax. The Government of India in the Ministry of Urban Affairs and Employment has constituted a Working Group on taxation of Government properties in India under the Central and State Governments. The views obtained from various sources support the view that there should be no exemption for the Government of India buildings and such buildings should also be taxed treating them on a par with other types of properties which are liable for taxation by the respective local bodies, since similar taxes are levied already on the properties of the State Government. In the above circumstances, the State Finance Commission recommends the taxation of properties of the Government of India as a matter of principle even though the tax derived out of this will not be very significant. There have also been suggestions that the exploitation of the sub-soil should also be taxed under property tax. Such exploitation is made in laying cables for lighting, telephones, laying of pipes and transportation networks etc. This has also been suggested in one of the points raised by the Time Research Foundation, Urban Studies Centre, Calcutta. There is a divergence of opinion in this regard. One seems to be that the local body should frame bye-laws for the licensing of any works involving excavations of sub-soil and that there need not be any levy of tax. Another view is that land includes sub-soil and surface and that all exploitation of sub-soil for transportation network, electricity supply, telephone connections or other telecommunication facilities, pipe lines, water-supply, sewerage, drainage, shopping plazas, warehousing facilities, railways and ports should also be subjected to local taxation on the value of structures and appliances. There are other views that in all these cases, instead of tax, surcharge can be levied. Taking all these different views into consideration, it does not seem proper to levy tax on these items equivalent to property tax but there is a good case for levying surcharges or licence fees in all these cases.

**2.2.30.** The rules prescribe that a General Revision of value of properties should be done once in five years by the Executive Authority in respect of all properties and the tax due on such revaluation can be claimed after following the procedure for assessment

like issue of notice, hearing of objection etc. In Tamil Nadu the General revision which is a mandatory one has been postponed for more than two decades by Government on the grounds of non-availability of elected local body. This is only an executive work not connected with the local body. The revision of rate of taxation will alone fall within the ambit of local body. The postponement has caused non-revision of values for more than 2 decades. Adoption of the current value for general revision now permitted has led to steep increase in tax amount even more than 5 times. The Government also has laid condition that the increase in the revised amount should not exceed certain limits as indicated by Government for residential, non residential and commercial properties. Thus the Government have fettered the freedom of the local body not only to revise the valuation periodically, but also restricted the legitimate levy based on the existing situation. The Local Body has been affected in both ways. This was done with the populist view to appease the public. On the other hand, tax-payers feel that they were not against any regular periodical revision and the Local body would also have been benefitted if done periodically and any steep rise at a time is not acceptable to them. Ultimately the Local Body has lost considerable income.

**2.2.31.** In Chennai Corporation the revision has been made after 1970 only in the year 1993. No compensation for such loss of income could also be claimed from the Government. While the property tax is the only source available for a substantial taxation, restrictions from higher level in implementing the taxation in the normal course has virtually destabilised the resource position. In other States, no such interference has occurred in the local taxation from higher level Government. While the State Government expects the local body to realise the due share of income by local taxation to meet their statutory responsibility and not to depend on Government for day to day administration, it should also be the policy of Government not to unilaterally enforce restrictions, concessions or abolition or write off of the sources available / earmarked to local bodies. If, in the interest of public cause, such policies are to be adopted by State Government a simultaneous compensation for Loss of Revenue should be made available to Local Bodies. The State Finance Commission considers that this should have a statutory backing also to avoid arbitrary decisions. The SFC has also suggested to adopt the inflation rate for revising the value of properties during General revision of values based on Consumer Price Index.

**2.2.32.** The suggestion is made with the intention that local body should take advantage of inflationary trends to correct the deficiencies in income realisation. In practice, the value of properties assessed based on inflationary trend will affect the property owners who have them for their own Residential purpose. The inflation added value will only be theoretical and notional and will be helpful only to those who convert their liquid assets for more value by way of business. For those who have been living in these buildings, for a number of years, it would only affect them adversely, since they will have to pay higher tax based on notional increase without relative benefit out of such increase in value. This will have wider resistance. This could of course apply to non residential and commercial or rental properties but not to those on own occupation. Taxation Enquiry Commission(1950) has also indicated that a theoretical pursuit of progression will imply a great burden on those whose main form of possession or source

of income is immovable property as distinguished from other type of possessions or investments. The tax payer should have sufficient income to pay the tax levied and in this context the suggestion will not be workable to a part of tax-payers.

**2.2.33.** Further when revision of value is taken segment-wise or zone wise, any increase in rate every year will be impractical. Any revision in value or rate should be periodical and the period of three years appears to be reasonable. However to have a regular flow of funds and also to deploy staff in systematic manner without resorting to additional seasonal employment, the general revision alone can be arranged zone-wise or for group of Divisions/wards every year by dividing the entire area in three zones/ Divisions. The revision of rate of levy may be left to Local Bodies. A minimum and maximum rate of levy on ARV may be prescribed to avoid low taxation.

#### **Collection Procedure:**

**2.2.34.** The other area requiring improvement for a better financial yield is the procedure for collection of taxes. At present, in Chennai Corporation, tax payers are permitted to pay the taxes through certain designated banks of course based on the tax demand to be received from Corporation authorities. The system of serving demand is available only in respect of local body taxation. In the case of taxes payable to the Government, the responsibility to file returns and disclose the income or turn-over in business etc., lies on the taxpayer and the payment of tax has to be made at the counters prescribed by the Government. Even in respect of Electricity charges, the payments are done in counters opened. The non-payment of such taxes like income-tax or sales tax or Electricity Consumption charges will invite the use of penal provisions in the relevant legislations and this prompts the tax-payers to pay the taxes within the time stipulated and the major portion of the tax-payers will normally pay the taxes within that time. The serving of demand notices in the case of local body taxes came to vogue in earlier days when the property tax assesseees were only a very few in number. Particularly with the advent of flat system and the construction of multi-storeyed complexes, this system is not practicable due to the heavy manual work involved besides the requirement of more infrastructural facilities needed by way of staff and other equipment. Even with the introduction of computers the serving of notice of demand on the tax-payers numbering about 9.03 lakhs in all the Corporations is a stupendous task. It is likely to involve delay and other incidental lapses like non-receipt of demand notices etc. Further the collection of money from such assesseees directly by the staff of the local body will also be impracticable. A new system has to be found out, whereby the responsibility of paying tax will be devolved on the tax-payer while the local body will retain its power to pursue only the defaulters whose number will not be much. This will reduce the scriptory work and the man-power required for such work. The non-availability of sufficient personnel at the required norms is one of the reasons attributed by the local bodies for the low rate of performance in collection.

**2.2.35.** The new system for collection may be as follows: Whenever the first assessment is made and whenever a general revision is done, a pass book or a card may be issued to the assesseees. The said pass book or card will contain the amount of tax fixed, the due date for payment, the grace time allowed for payment, and the penalty to be added for making payment after the expiry of grace time separately for each half year for a period of, say, the next five years or up to the period of next general revision envisaged under the rules. Unless the tax is revised in the meantime for any property for any reason whatever, the amount of tax indicated in the card or the pass book will be final and the responsibility will lie on the tax-payer for payment of the tax at the appropriate counters in the zones fixed by the local body or at the branches of the specified nationalised banks to be declared by the local body as the collecting agency. The amount of tax can be produced along with the pass book or the card and necessary entries for payment will be made therein and the said pass book or card with the entries will stand as proof for payment of the tax by the tax-payer. This will reduce a lot of unnecessary clerical work now involved in the collection and will minimise the deployment of personnel for the said purpose and also scope for misuse and misapplication. The initial task of furnishing pass book or card to each tax-payer will involve a large quantum of work but the work which was otherwise required will get reduced at the time of next General revision. This will also create a situation where the local body will have to pursue only such of those tax-payers who have not paid the taxes within the grace time allowed and the local body also will be able to effectively resort to penal proceedings for collection from such defaulters.

**2.2.36.** In the same manner, the local body can also think of introducing a system whereby a rebate of 2% could be given to those who make payment of the taxes before the expiry of the due dates and also additional concessions to those who make advance payments at 5% for more than a year i.e. more than two half years. This rebate could also be specifically indicated in the pass book or card itself, so that the collecting agency will automatically give effect to the payment of rebate at the time of collection of taxes. This is also likely to infuse enthusiasm in the tax-payers to be prompt in payment of the taxes. In respect of those who are paying the taxes in advance they will have a proper receipt available in their pass book or card and the safety needed for proper accounting is achieved. The present reluctance to pay taxes in advance is due to the fact that the local body takes the advance payment into their deposit account but fail to give proper credit at the time of issuing demand notices for the successive periods and very often the tax payers have to make protracted correspondence with the local body involving delay in tracing out the credit entries in the deposit account books. All these will get eliminated in the system of issue of pass book or card and of making entries therein as and when payment was made and the said pass book or card will be a document of acknowledgment for the tax-payer.

**2.2.37.** In the case of defaulters, penalty of 5% may be added for each half year concerned and collected.

**2.2.38.** The above reforms in the levy, assessment and collection procedure will lead to better tax mapping efforts and collection performance. Even if it is considered that the change in procedure could not be immediately given effect to in all the Local bodies at one stroke, some of the local bodies can be taken up for pilot study of collection procedure and the changed system may be introduced in the other areas based on the experience of such study. The reform will also help reducing administrative cost in collection. Provision of Computer will also further add to the efficiency in performance.

**2.2.39.** The following further reforms are needed in the property tax administration to ensure more yield as well as better administration:

1. A minimum and maximum rate of taxation should be fixed so that the local bodies will not resort to very low level of taxation.
2. The Valuation Cell may be appointed at state level in the Regional Centres consisting of technically qualified people like Engineers, Town Planners and Revenue Officers.
3. The special notice of assessment issued should indicate the basis of taxation.
4. A Tax Squad under the Valuation Cell may be created for making surprise checks to avoid evasion of tax mapping. They may be given independent power to assess or reassess a building wherever omissions are found.
5. The fixation of annual rental value should be freed from the restrictions in the Rent Control Act, since even for fixing the Plinth area Unit Rental value, the local bodies have been taking care of the provisions of Rent Control Act. This can be achieved if the Local Bodies Acts contain provision for method of calculation or enabling provision to prescribe suitable rules applicable under Local Bodies Act.
6. A standard percentage of collection should be fixed for ensuring better performance of tax collection; and if necessary, Government assistance in full or in part may be denied for poor performance. Action may also be taken against the concerned machinery of the Local Body for poor performance on tax mapping wherever remedial action has not been taken even after direction from the inspecting authorities.
7. Vacancy remission should be given for the actual vacancy for a continuous period of 90 days instead of 30 days now provided for, since it causes difficulty in working out the rebate or concession.

8. The present Taxation Rules provide for a Revision every half year and the Tax-payer avails it on the ground that there is reduction in value during the course of the half-year. Instead of that, revision petition can be allowed only twice during the period of five years after the general revision to avoid frequent petitions and unnecessary correspondence over that.
9. Write-off of the arrears can be allowed only after exhausting all the provisions for collection including the filing of a suit to avoid indiscreet write-off. Any such indiscreet write-off should be made questionable.
10. The tax collection machinery may be given a bonus for higher collection of the arrears of tax involved.
11. The local body which shows best performance in tax collection could be awarded special assistance from the Government as a form of recognition.
12. Distraint against immovable property will enable improvement in collection.
13. Instead of civil suit, appeal on all Tax matters could be made to a Tribunal to enable easy disposal and uniform decisions, which may be initially attached to the District court in each District. Separate Tribunal can be formed based on the need and experience. With the reforms proposed it is hoped that income from property tax may yield at least twice the existing level.

The Property Tax litigations pending in courts and the amount involved are as follows:

**Table 2.6. Property Tax : Details of Litigations**

	Cases	Rs.(crores)
Municipal Corporation	12063	18.50
Municipalities	56850	12.19
Town Panchayats	32012	1.80

The above facts indicate that there is need for some change in procedure to avoid cases being taken to the court resulting in abnormal delay. The new procedure for assessment of Property Tax is likely to reduce the number of cases going to court as against the assessment, in view of the transparency and publicity of the rates levied in each area and the amount payable by the individuals. At present the local bodies have got the power to initiate distraint proceedings for the attachment of movables besides



filing civil suits against the defaulters. There should be some rigid procedure for distraint against immovable properties also by which the assesseees are made to pay the amount without resorting to court. The application of Revenue Recovery Act will improve the situation in collection. In the case of arrears which are not covered by court stay also review has to be made on procedures and special efforts to settle the matters may produce better results in the collection. Anyway, the local bodies have to concentrate on the collection of arrears which account for more than a year's tax proceeds. If the assesseees resort to legal cases or make the Local body resort to Legal action for collection, a special provision has to be made in the enactment to make the assesseees deposit at least 50% of the tax assessed in the case of new assessments, and deposit the old tax and 50% of increase in new tax in the case of general revision. This has also been the view of high courts in many cases where writ petitions have been filed against enhancement in the general revision. In the case of regular defaults distraint proceedings should be resorted to instead of filing suits.

**2.2.40. The recommendations of the Commission under Property Tax Administration are as below:**

1. Switching over from the present Annual value system to the area linked unit value system which ensures better acceptability to the people and more revenue yield for the Local Bodies is recommended.
2. Basic Ratable plinth area monthly rental value with ranges proposed by SFC are given in the Schedule in Appendix No. 11. The rates applicable to all urban bodies are furnished in the schedule.
- 3.i. As an immediate step, a revision may be carried out. General revision may be done thereafter once in three years for administrative ease.
- ii. ARV may be revised once in three years based on inflation rate with reference to consumer price index. If the average rate of inflation goes down then the revision rate should be based on that index. On the other hand, if it goes up, the revision rate should also go up on the same proportion. Such a revision to adjust for inflation should be made known to the tax payers in advance.
- iii. For example, the average inflation rate is 10% and so at the end of 3 years the ARV will have to be revised upwards by about  $(1.1)^3 - 1 = 33\%$ . Allowing for the 10% depreciation (=3.3%) the net ARV increase eligible for taxation will be 29.7%.

- iv. If such inflation indexing is done, then the revision will lead to growth in the real revenues from the property tax and also avoid indiscriminate increase in the tax payable by the taxpayers.
  - v. General revision is proposed once in three years to have effective implementation without deployment of additional staff. General revision can be done by dividing the area into Zones and revision made zone-wise or for a group of divisions/wards every year.
- 4. Computerization:** The average number of property tax assessees per corporation are 1,37,968, per municipality are 21,981 and per town panchayat are 3,184. Since a large number of records have to be maintained in order to administer this tax efficiently. SFC recommends that the urban local bodies may computerize their property tax records and their property tax systems. Computerization is desirable in the case of Town Panchayats also.
- 5. Service Tax Component:** The total property tax may be divided into two parts, one as general purpose tax and the other as service tax on 50:50 basis. Purposes in common like water supply, lighting, scavenging, and drainage may be met from Service tax with flexibility for utilising the income realised from service tax to the components with reference to top priority in the area. However, out of the service component tax of 50 %, the Local Body should uniformly set apart at least half the amount towards water supply and sewerage/drainage.
- 6.** A directory of property tax may be printed and made available to the tax payers indicating the rate of taxation adopted areawise with all exemptions/ concessions and incentives and penal provisions. This should be reprinted whenever a general revision is done. This will go a long way to fetch transparency and reduce litigation.
- 7.** A preliminary analysis of the revised structure reveals that it will lead to an additional revenue generation by a minimum of 30-40% for the Corporations, (for Chennai alone, it is likely to be more than 50%), 25-35% for the municipalities and 35-45% for the Town Panchayats.

## Exemptions:

8. Total exemption for all educational institutions from taxation is not equitable since the institutions avail all the civic facilities like roads, lighting, water supply etc. Instead of total exemption, concession may be given in the levy of general purpose tax by restricting the levy to service tax alone.
9. In the case of Industrial Estates, the tax concession should not be available for more than a period of 5 years. Thereafter, concession on service tax can be given proportionate to services locally provided but not on general purpose tax.
10. The taxation of properties of the Central Government is recommended as a matter of principle even though the tax derived may not be appreciable.
11. In the case of Central Government buildings as also in the case of educational institutions and other charitable institutions, service tax may be levied in addition to the user charges now collected.
12. Public sector undertakings which have their own provision for services within their areas may be levied general purpose property tax in full and service tax in proportion to the service provided by local body from its funds in its locality.
13. **General Revision:** There should be no restrictions, concessions, abolition or write-off of tax or other revenue sources available/ earmarked to Local Bodies by Government without consulting the LBs.
14. If such intervention is found necessary by the Government in the interest of public cause, compensation for loss of revenue should be simultaneously made available to the Local Bodies by the Government.
15. **Collection Procedure:** The SFC recommends that the responsibility of paying tax should devolve legally on tax payers by suitable provisions in the enactments.

16. The new system for collection may be as under:  
At the time of first assessment/General Revision a pass book or a card may be issued to the assesseees. The pass book/card will contain particulars about tax levied, due date of payment, grace time allowed for payment, penalty for delayed payment separately for each half year for the next 3 years i.e. upto the next general revision. The amount of tax indicated will be final, unless the tax had to be revised in the meantime for any reason.
17. It is the responsibility of the tax payer to pay the tax at the appropriate counters in the Zones or in the specified branches of nationalised banks declared as the collecting agency. At the time of payment, entries will be made in the pass book or card and such entries will stand as proof for payment of tax.
18. A rebate of 2% may be allowed for prompt payment and 5% for advance payment of tax. These rebate rates may be indicated in the Pass Book/Card itself, so that the collecting agency can accept the tax allowing the rebate at the time of collection of tax.
19. In the case of defaulters a penalty of 5 % of tax may be added for each half year concerned and collected.

**Further Reforms Recommended in Property Tax Administration**

20. A Minimum and maximum rate of Tax (consisting of General Purpose and Service Tax) may be fixed, to avoid low level of taxation as below:

**Table 2.7. Property Tax: Proposed Rates of levy**

	Minimum	Maximum
Municipal Corporations	20%	40%
Municipalities	15%	35%
Town Panchayats	15%	30%

21. A Tariff and Valuation Cell consisting of technically qualified people like Engineers, Town Planners and Revenue Officers may be created at State Level/with Regional Centres to help local bodies, in the valuation of properties and assist in any determination of cost of services for user charges.

22. A Tax Squad under the Valuation Cell may be created at Headquarters for making surprise checks to avoid evasion of tax mapping. The Squad may be given powers to direct assessment by the Local Body in cases of omission.
23. Application of the Rent Control Act to rental value adopted by local bodies should be eliminated by laying down guidelines for the procedure for valuation in the respective Local Acts.
24. A minimum performance of tax collection should be ensured, Government assistance to Local Body should be related to Tax performance. Action may be taken for poor performance, against the concerned machinery, if no improvement is found even after direction.
25. Tax collection machinery may be given incentive for higher collection of tax involved.
26. Permitting distraint against immovable properties will enable improvement in collection.
27. Reduction in Tax for vacancy remission may be given for vacancy for a continuous period of 90 days, instead of 30 days now adopted.
28. The present Rules provide for request from assessee for revision of tax every half year. This provision should be limited to only twice within 3-year period after the initial assessment/ general revision, to avoid frequent requests
29. Write-off of arrears should be allowed only after exhausting all methods of collection, including filing of suit. Indiscreet write-off should be subjected to question.
30. Instead of suit, in civil courts, all tax matters could be dealt with by a Special Tax Tribunal to avoid delay in disposal and to ensure uniformity in decisions. Initially District Courts may be the Tribunals. Based on the need and experience, Special Tribunals may be created.\

- 31. General for all Local Bodies:** If the assesseees/Lessees resort to legal proceedings, or if the Local Body is compelled to resort to legal action for collection, a special provision should be made in the enactment concerned whereby the assesseees may have to deposit 50 % of the tax assessed in case of new assessments or to deposit the old tax and 50% of increase in new tax in the case of general revision, and the Lessees may have to deposit the accepted lease amount. In case of habitual defaulters, distraint proceedings should be resorted to instead of filing suits.

## **Profession Tax**

**2.2.41.** The Profession Tax is another important revenue of the local bodies, especially for the upper tiers namely Corporations and Municipalities. Under the respective Acts of the Corporations, powers have been given to levy profession tax on all professions, trade, and calling in the area of the local body concerned. Prior to 1st April 1992, the profession tax was based on the provisions available in the respective legislations governing the Corporations or other local bodies. The maximum and minimum tax leviable based on the income of the individuals/ Establishments was indicated in the Act itself and the local bodies were given the freedom to levy the tax at the rates of their own choice in between the maximum and minimum and enforce it in their areas through the personnel of the local bodies concerned. Since the profession tax was levied mainly on the basis of income of the persons, tax in respect of self-employed professionals like doctors, lawyers, traders, and others could not be assessed correctly, as their income is normally not ascertainable by the local body staff. Only in the case of salaried employees the assessment was made through the returns to be filed by the employers and proper levy was made. Here also it was made compulsory on the part of the employers to deduct the amount of profession tax from the salary of the employee concerned in two instalments as prescribed by the Act and pass it on to the local body. Prior to the compulsion made through amendment to the provisions of the Act, the collection of profession tax even from the salaried class was not significant. With a view to improving the resources of the local bodies a new consolidated Act namely the Tamil Nadu Tax on Professions, Trades, Callings and Employment Act 1992 was enacted to levy the tax based on the profession calling etc. with the maximum limit of Rs.1250 per half year (Rs.2500 per year) as allowed in Article 276 of the Constitution of India. Prior to the revision of rate, the rates which were in force were maximum of Rs.125 per half year and Rs.250 per year (Maximum limit).

**2.2.42.** According to the new Act, dealers registered under the General Sales Tax Act 1959 were liable to pay profession tax based on their annual gross turn-over as indicated below:

**Table 2.8. Profession Tax on Traders as per new Act 1992**

	Annual turn-over	Half-yearly tax	
		Minimum Rs.	Maximum Rs.
i)	Less than Rs.50,000	200	750
ii)	Rs.50,000 - Rs. 1 lakh	300	750
iii)	Rs.1 lakh -Rs.2 lakhs	500	1000
iv)	Rs. 2 lakhs or above	1000	1250

In respect of the employees, various slabs have been prescribed based on their half-yearly income and the rates to be adopted for the slabs have also been indicated in the Act. Regarding the professionals, various parameters have been adopted like the period of service in the connected profession and the assumed gross income in the profession and the tax for half year or full year has been prescribed at a flat rate depending on their period of service etc.

**2.2.43.** Anyhow several representations have been made by the Traders' Association and many Writ Petitions have been filed in the High Court against the new Act and also against the rates of tax levied thereunder, on the ground that the tax on the traders should be based on their income as was done in the earlier Act and should not be based on the turn-over and also on the plea that the new rates of tax are very high. The Government exempted the levy of tax on those traders whose annual turn-over was less than Rs.75000/-; but, still the Association was not satisfied.

**2.2.44.** Based on subsequent discussions, the Government announced some more concessions in 1993-94. It is understood that the matter was further discussed by the end of 1993-94 and the rates of tax for the dealers were again revised based on the annual turn-over as follows:-

**Table 2.9. PROFESSION TAX ON TRADERS FROM 1.4.1992.**

	Category All registered dealers with turn-over up-to	Half-yearly Tax	
		Minimum Rs.	Maximum Rs.
1.	Rs. 1 lakh	60	90
2.	Rs.1 lakh - 2 lakhs	90	120
3.	Rs.2 lakhs - 3 lakhs	120	240
4.	Rs.3 lakhs - 5 lakhs	240	300
5.	Rs.5 lakhs - 7.5 lakhs	300	360
6.	Rs.7.5 lakhs - 10 lakhs	360	600
7.	Rs.10 lakhs - 15 lakhs	600	720
8.	Rs.15 lakhs - 20 lakhs	720	840
9.	Rs.20 lakhs and above	840	1020

Similarly in the case of Companies, the rates were revised for levy of tax on the directors, dividing them as part-time and full-time. The revised rates were given retrospective effect from 1-4-92, with a clause to waive the penalty due for the delay, if the reduced taxes were paid before 30-4-94.

2.2.45. On a further agitation from the Traders' Association, the tax rates were further revised with effect from 1-4-95 as below, which are now in force.

**Table 2.10 Profession Tax on Traders Revised from 1.4.95.**

		Order from 1.4.92 rate of tax per half year		Revised rate of tax per half year	
		Min. Rs.	Max. Rs.	Min. Rs.	Max. Rs.
Dealers registered under the TNGST Act 1959 (TN Act I of 1959) and whose annual gross turnover of all sales or all purchases is					
1.	Less than Rs.1 lakh	60	90	30	60
2.	Rs.1 lakh or more but less than Rs.2 lakhs	90	120	60	120
3.	Rs.2 lakhs or more but less than Rs.3 lakhs	120	240	120	240
4.	Rs.3 lakhs or more but less than Rs.5 lakhs	240	300	240	300
5.	Rs.5 lakhs or more but less than Rs.7.50 lakhs	300	360	300	360
6.	Rs.7.50 lakhs or more but less than Rs.10 lakhs	360	600	360	540
7.	Rs.10 lakhs or more but less than Rs.15 lakhs	600	720	540	600
8.	Rs.15 lakhs or more but less than Rs.20 lakhs	720	840	600	690
9.	Rs. 20 lakhs or more	840	1020	690	720



2.2.46. The following professions / trades have not been specifically mentioned in the enactment and may be notified under the item "others":

1. Computer/Typewriting, shorthand, accountancy Training Institutes.
2. Tutorial Colleges.
3. Small Scale Garments/Leather goods Manufacturers and Exporters.
4. Beauty Parlours and Beauticians
5. Legal Consultants other than Legal Practitioners
6. Non-Bank Financial Services Companies.
7. Foreign Exchange Dealers
8. Providers of Transit/Temporary Offices
9. Travel Services/Tour Organisers
10. Employment Recruitment Agencies
11. Cable TV Operators
12. ISD/STD/FAX Operators
13. Photo Copying Shops
14. Commercially organised Music parties.
15. Lending Libraries
16. Dry Cleaners

The Government will have to issue a special notification under the proviso to section 3(3) of the Act. This measure is estimated as capable of increasing the yield on an average by 25 to 30 % for larger Municipal Corporations and 15 to 20 % for Municipalities and 10 to 15 % for Town Panchayats. It was also suggested to SFC to increase the slab rates every year to include the incidence of inflation. A minimum and maximum has been prescribed with reference to the Constitution and increase of rates over and above the ceiling cannot be resorted to. The litigation in relation to Profession Tax was mainly because of the steep increase in the level of taxation due to the new enactment. Any suggestion for increase in the rate every year based on inflation may not be now advisable and perhaps this could be considered later. The proper implementation of the present Act is expected to ensure a higher level of income compared to the revenue derived in previous years. Since the Government have negotiated and finalised the various rates, the SFC feels that the present rates may be in force for the next five years and any revision can be considered later. Similarly all petty traders who are not covered under turn over system may also be included under "others" for a flat rate Tax.

2.2.47. The following table indicates the income from profession tax in Municipal Corporations:-

**Table 2.11. Corporations : Income from Profession Tax (Rs. in Lakhs)**

	1991-92	1992-93	1993-94	Average
Chennai	253.18	473.81	1143.73	623.57
Coimbatore	45.92	48.31	117.88	70.70
Madurai	28.04	27.93	120.99	58.99
Salem	23.25	7.97	66.80	32.67
Trichy	39.56	29.62	109.31	59.50
Tirunelveli	16.91	20.92	61.31	33.05
<b>Total</b>	<b>406.86</b>	<b>608.56</b>	<b>1620.02</b>	<b>878.48</b>

2.2.48. Though the yield from this tax is not very substantial in Town Panchayats and Village Panchayats, still it forms one of the major revenue in those areas also. The tax realisation under Profession Tax in 1993-94 is Rs.22 per capita in all the Corporations put together as against Rs.8 in the year 1992-93. With the various amendments made and concessions allowed, it is hoped, the income is likely to increase further. The enforcement of collection on the traders and professionals is a major difficulty experienced by the local bodies. Though powers have been given for penal action for non-registering by the professionals and traders under the new Act of 1992, there has not been much of a response from this section of people.

2.2.49. The study indicates that about Rs.8.77 crores are realised from salaried class in all the Corporations put together under the Profession Tax. The shops and establishments have contributed about Rs.2.23 crores while the Companies have contributed about Rs.72 lakhs. Banks have contributed Rs.2.57 crores. The income from the professionals like consultants, contractors, commission agents, legal practitioners, and medical practitioners is comparably very low as may be seen from the table below:

**Table 2.12. Corporations: Profession Tax: Assessee Nos. and Demand**

ASSESSEES	NO.	DEMAND (Rs. in lakhs)
Salaried	2,38,881	877.56
Shop & Estt.	1,21,731	223.16
Companies	54,417	72.45
Banks	60,877	257.34
Consultants	40,498	28.53
Contractors	2,182	26.69
Commssn.Agents	1,393	31.34
Legal Practitioner	17,698	52.99
Medical Practnr.	7,825	56.05
Others	17,268	62.61
<b>Total</b>	<b>5,62,770</b>	<b>1688.71</b>

This is because the particular class or category have not responded so far for payment of tax under the Act in view of the negotiations that were going on with the Government and the Writ Petitions filed in the High Court against the implementation of the Act against them.

**2.2.50.** Now that it has been settled and the Government have given final concessions on the rates to be levied, the enforcement machinery has to be strengthened and the rates finally approved by Government may be continued. Local Body should take immediate steps to make tax mapping of all assessees liable under the Act through their staff and issue notices to them for non-enrolment and registration and also initiate penal action at least in a few cases which will compel all the assessees to resort to voluntary enrolment and registration under the Act.

**2.2.51.** In this context, it may be pointed out that in Maharashtra State and Andhra Pradesh State the levy has been taken away from the hands of the local bodies and has been entrusted to the Government Department, namely, Commercial Taxes Department. The Commercial Taxes Department deals mostly with the traders and other business people and it will be easier for them to finalise the tax based on their annual turn-over furnished in the annual returns to be filed by the traders before them. In the case of professionals, the department has no hold over them to compel them to file any return. However, it is understood from the Andhra Pradesh and Maharashtra States that the department has been able to implement the provisions of the Act in relation to these professionals also. During the visits of the Commission to these two States it was informed that the total income under this head has increased manifold compared to the income realised by the local bodies, when the tax collection was enforced by them. The taxes collected are distributed to the concerned local body after retaining some percentage as collection charges by the Government.

**2.2.52.** This system was being supported by some of the departmental representatives and also some representatives of the public, V.I.Ps. etc. while a survey was conducted to know their views in this regard. The only pertinent question, however, that arises is that the local bodies are enforcing only a few taxes on their own, of which profession tax is one and whether the Profession Tax should also be handed over to the Government for collection.

#### **RECOMMENDATIONS:**

##### **2.2.53. SFC RECOMMENDS THE FOLLOWING:**

1. Local Body should take immediate steps for tax mapping of all kinds of assessees. Notices may be issued to those who have not registered Penal action may be initiated at least in a few cases which will make others to seek voluntary registration and enrolment.

2. The following professions / trades have not been specifically mentioned in the enactment

1. Computer/Typewriting, Shorthand, Accountancy Training Institutes.
2. Tutorial Colleges.
3. Small Scale Garments/Leather goods manufacturers and Exporters.
4. Beauty Parlours and Beauticians.
5. Legal Consultants other than Legal Practitioners.
6. Non-Bank Financial Service Companies
7. Foreign Exchange Dealers
8. Providers of Transit/Temporary Offices
9. Travel Services/Tour Organisers
10. Employment Recruitment Agencies
11. Cable TV Operators
12. ISD/STD/FAX Operators
13. Photo Copying Shops
14. Commercially Organised Music Parties
15. Lending Libraries
16. Dry Cleaners
17. Petty traders (not covered by turn over system)

The Government may issue a special notification under the proviso to section 3(3) of the new Profession Act 1992 to include them under "Others" and also to make the provision applicable to all Local Bodies both Urban and Rural.

3. The present rates finally notified by Government after negotiations may be in force for the next five years and any revision can be considered later.
4. After careful examination SFC considers that the profession tax may be continued to be collected by Local bodies. The C.T.Department may be made responsible to furnish the list of traders and their turn over to the Local Body concerned to enable them to adopt the turn over as finalised by the Commercial Tax Department. When assessment of a year is still under process of finalisation the turn over of earlier year can be adopted initially and arrears collected later. With the revised rates coupled with better collection experience the yield is likely to increase thrice of the existing level.

## Vehicles Tax:

2.2.54. The local bodies have been given power to levy a tax on vehicles which are non-motorised like carts, bicycles and rickshaws. Recently the Government have announced the abolition of this vehicles tax in toto. Local bodies have also been representing that this tax may be abolished in view of the meagre amount realised and the high expenditure involved in the collection of this tax. Originally all the vehicles which are not coming within the purview of the Motor Vehicles Taxation Act, were brought under this taxation. Now there are vehicles which are energised with motors but not coming within the limit of taxation under the Motor Vehicles Taxation Act. There are also certain two-wheelers which are levied life-time tax by the Motor Vehicles Department. Not only in Cities but also in villages, two wheelers have come to play a vital role in transportation, and the carts, bullock carts or hackney carriages have almost dis-appeared from the scene. Bicycles being the common man's vehicle were already exempted from the levy of any tax. Instead of totally abolishing the vehicles tax, the local bodies could be allowed to levy a tax on motorised vehicles which do not come within the purview of the Motor Vehicles Taxation Act. and also on Tractors for which exemptions are obtained.

2.2.55. There are about 11.26 lakhs vehicles in the category of Mopeds and Two Wheelers and Tractors in the State.

The following rates are proposed:

**Table 2.13. Vehicle Tax - Rate of Levy**

1. Bicycles and carts	Exempted	
2. Two Wheelers	Rs.10-50	per year
3. Tractors	Rs.15-30	per year

The number of such vehicles will be sizeable in urban areas like Municipalities and Corporations. Though their number may be less in Town Panchayats and Village Panchayats, it will also be not difficult to identify them because they are being registered in the Motor Vehicles Department for numbering. The income that can be expected from this is estimated at about Rs.2.00 crores for the state if a minimum levy is collected.

## Recommendations

2.2.56. The following are the recommendations of SFC.

Tax on carts and bicycles has been abolished. Instead of totally deleting the provision of Vehicles Tax, Local Bodies may be allowed to levy tax on motorised vehicles which do not come within the purview of the Motor Vehicles Taxation Act and also on other two wheelers and tractors.

The rate of levy may be as below:

Vehicle Type	Tax (Rs.) per year
1. Bicycles and Carts	Exempted
2. Two Wheelers	10-50
3. Tractors	15-30

#### **Tax on animals and carriages**

**2.2.57.** The tax amount realised under this head is very meagre. Therefore, instead of levying taxes on animals, a uniform pattern and system of licensing of animals like dogs, pigs and other domestic animals can be introduced.

#### **2.2.58. Recommendations**

SFC recommends that tax on animals may be abolished. A uniform pattern of licensing of animals like dogs, pigs and other domestic animals may be introduced,

**2.2.59.** In Chennai Corporation, there are three other taxes in existence, viz., tax on companies, tax on timber, and tax on advertisements as indicated below:

#### **Tax on Timber :**

**2.2.60.** Timber tax has been in existence in Chennai Corporation for a very long time right from the inception of the Act. The trade in timber carried on in the Buckingham Canal was impressive in those days. The tax seems to have been prescribed in city since timber of all kinds were being imported from Kerala and other states and also from outside countries and the transport took place by road as well as sea. The High Level Committee on Chennai Corporation Administration 1978 has pointed out that this tax is one which can be easily collected since the trade is concentrated only in select localities in the city. But the income under this tax has been very low in all the three years(1991-92 to 1993-94) and no effort seems to have been made for improving the revenue under this item. This has been pointed out by the 1978 Committee and it suggested that the Corporation may prepare an upto date list of all wholesale dealers in timber with the estimated value of transaction carried on by them during the last 3 years which could be counter checked with Commercial Tax Department since the assessments for several years have not been made and demands issued. This tax was considered likely to yield a substantial income to the Corporation taking into account the very high price of timber prevailing. Though the existing rate of tax is not available it is presumed that a certain percentage of the value of the timber transacted seems to have been levied and collected. The High Level Committee also suggested even in 1978 to raise the level of taxation at least to 5% of the value of the timber.

It is stated that a similar tax was available in Bombay but the introduction of Octroi has made that tax redundant. With the high price of timber now being sold, there could be a reasonable expectation of high yield of revenue to the Corporation even if the tax is levied at the current rate. This tax is not levied in other Corporations and only the Chennai City Municipal Corporation Act contains provisions for this. The position of taxation for timber under the Sales Tax Act was verified. It is noted that tax at 8% on the sale of timber has been prescribed and is being collected by the Tamil Nadu Government. This tax may amount to double levy on the same commodity. However this tax is available only to Chennai Corporation which is the oldest Corporation. Perhaps Sales Tax came into effect and later on when new Corporations were formed, this provision has not been extended. Being peculiar to Chennai, this may be continued. The need for this tax in other Corporations may also be examined and extended to them.

#### **2.2.61. Recommendations.**

The tax now collected in Chennai Corporation may be continued and extended to other Corporations after due examination .

#### **2.2.62. Company Tax :**

The Chennai City Municipal Corporation Act empowers taxation on the companies based on the paid-up capital of the company if its head office or principal office is situated in the city of Chennai. The logic of this taxation is not known. It is understood that the companies were divided into 7 categories and the minimum tax is Rs.60 per year and the maximum is Rs.2000 per year. In respect of companies whose Head or principal office is not in the city, but whose branches are in the city, the taxes based on the gross income received or derived in the city in the year immediately preceding is to be taken for taxation. The levy varies from Rs.100/- per year to Rs.2000/- per year. Though the income was ranging from Rs.8 to 10 lakhs between 1972-73 to 1976-77 as furnished by the High Level Committee on Chennai Corporation Administration, it is found that only Rs.5 lakhs is now being collected as seen from the particulars obtained by the State Finance Commission.

**2.2.63.** The High Level Committee on Administration of Chennai Corporation found that the percentage of collection was fairly high at that time and the cost of collection was also negligible. The Committee recommended for stepping up the rates of this tax and expected the yield to progressively go up to Rs.20 lakhs in the next few years commencing from 1977 - 78. The yield has practically fallen down. It is not known why the Corporation has not made any efforts to improve the tax efforts under this item especially when the number of companies in Chennai has sufficiently increased. Companies registered under Cooperative Societies Act are exempted from levy and all other companies are liable for taxation. Since the details and number of companies are not available, it is not possible to estimate the probable income that can be derived by the Corporation from this source. However, there is lack of efforts to improve

the income from both timber tax and the companies tax which were specifically allocated for Chennai City Municipal Corporation only under the enactment. State Finance Commission considers that while new tax domains are not very much, why the existing tax provisions could not be availed of and fully exploited needs to be examined especially when the revenues under these items are likely to be substantial in view of the formation of more companies under the Companies Act in Chennai City.

#### **2.2.64. Recommendations:**

This tax now available for Chennai Corporation may be continued and extended to other Corporations, after due examination.

**2.2.65.** Tax on Advertisements stands on a different footing. From this tax, more income can be realised in view of the momentum gained in the manner of advertisement and the usage of this weapon by most of the firms and companies for the purpose of improving their level of business. Further it is seen that in big cities there should be some regulatory mechanism to control the advertisements which are at present made through posters, lamp posts, walls of buildings and compounds and cut-outs. In view of this, tax on advertisement may be suitably modified and the urban local bodies can be permitted to levy this tax so that the nature and types of advertisements could be regulated besides having a sizeable yield of revenue to the local bodies under this head. The advertisements on the Highways are being controlled by a Committee in the case of Madras City, and by the Highways and Rural Works Department in other cases. Even though regulation and control are exercised by a Committee or by a Government Department, the income realised on that account should be made available to the particular local body within whose area such advertisements are made either on the Highways or on any other roads. In the case of advertisements made in private buildings, the control should be exercised only by the local body. The Chennai Corporation has levied Advertisement tax. This subject has been further dealt with under New Tax domain in paragraph 2.2.111 to 114.

#### **Vacant Land Tax:**

**2.2.66.** International experiences indicate that vacant land tax can be a major source of revenue for the urban local bodies. It is known that in many developing countries like Latin America, vacant land is taxed at a higher rate when compared to built-up property. This is done with the intention of curbing speculation on land on the one hand and to promote housing on the other, both of which are needed in urban areas. This source is under-exploited in our country, though provisions are available to levy tax on vacant lands in the urban areas like Corporations and Municipalities. In view of the fast development that is taking place, new housing lay-outs are coming up in more numbers and the promoters are plotting out the lands and selling the vacant plots to those who are desirous of purchasing them. In fact, many have taken this form as a source of investment with the



hope of getting speculative increases in value of the land at a later date. The real estate business is one of the thriving businesses nowadays throughout the State and it is also represented that the real estate people are making huge profits and at the same time, do not contribute much to the local bodies' revenues out of their huge profits.

2.2.67. In fact it is also brought to notice that in many cases un-authorized lay-outs are drawn and the vacant plots are sold away to the unwary individuals without proper approval.

**Table 2.14. Municipal Corporations Unapproved Layouts (as on 31.3.94)**

Corporation	Unapproved Layouts (in Nos.)
Coimbatore	150
Madras	1137
Madurai	58
Salem	n.a
Trichy	363
Tirunelveli	74

In such cases, people who have their own money are able to put up constructions and even start living in the houses so put up, seeking all facilities from the local bodies concerned. Though there are rules and regulations for the purpose of regulating and planning the lay-outs through the Chennai Metropolitan Development Authority and the Directorate of Town and Country Planning, the unauthorised lay-outs are also coming into existence. The cost of plots in the approved lay-outs is going up abnormally because of the activities of the real estate promoters. With all this, the concerned local body has not realised any benefit while the local body has to face the responsibility of providing basic facilities to those new-comers in their areas.

2.2.68. To obviate this situation, a system of levy on vacant land at the rate of 1 to 2 % of the capital value following a life cycle vacant land tax system was considered by SFC. Under this system, the tax for 10 years is to be collected at one go at the time of the transfer of the vacant land as such from the purchaser. After implementation, during the next transfer, the buyer will have to pay 10 years' vacant land tax deducting the tax which has already been paid calculating from the date of previous purchase to the date of subsequent sale out of the tax collected for the first ten years. The value determined at the Registrar's office can be used for determining the value and the collection of this tax can be made as a component of the registration fees collected by the Registration Department. The amount so collected may be passed on to the local body concerned by the Registration Department. It was also suggested that 1/10th of the realisation of the

tax should be set apart as capital reserve and should be made available only for capital works in the area concerned. It was also considered whether a Tariff and Valuation Cell proposed at the State Level can guide the local bodies in the adoption of the valuation of properties wherever necessary.

**2.2.69.** There is one important point which needs to be considered in this regard. Middle class people who are desirous of owning a house and who are in pursuit of a suitable plot of lands are not able to own it as it would happen in the case of affluent people. So they would first go in for purchase of a vacant plot with the available funds and will keep the plot vacant expecting sanction of loan or other facilities for the purpose of construction. Even for purchasing a plot they would have to mobilise all their savings. Levying a tax on them as a penalty for keeping the land vacant for some years will be detrimental to their interests and will dampen their urge to own a property.

**2.2.70.** The real person who is benefited on account of the rise in value of the land is not the purchaser but the real estate people who sell the plot of land at a high cost which includes also their profit and in some cases, even without following the rules and regulations for the formation of a lay-out, to provide minimum facilities of roads, open space reservation etc.

**2.2.71.** Instead of levying the vacant land tax on the purchaser, wherever new lay-outs are promoted, a one-time tax for a specific period (for five years) can be levied against the lay out promoter at the time when they get approval for their lay outs from the planning authorities. It will be difficult to enforce collection of vacant land tax subsequently from the purchasers in view of the difficulty in identification of the buyers from time to time. It is also considered that the burden of this vacant land tax should not be mulcted upon the buyer, since the benefit of inflation and cost escalation is availed only by the seller and not the buyer. The subsequent tax etc. on vacant land can be collected from sellers when they sell their property as detailed in the recommendations hereunder.

**2.2.72. Recommendations:**

**SFC recommends the following:**

1. The levy of Vacant Land Tax is considered necessary since these lands derive the incremental price benefit due to basic amenities provided in the location for the existing inhabitants at high cost.
2. The burden of Vacant Land Tax should not be mulcted upon the buyer, since the incremental benefits of price are mainly availed of only by the seller and not the buyer.
3. A one-time vacant land tax may be levied for a specific period, namely, ten years on the promoter of a lay out at the time when the

promoter gets approval from the planning authorities and passed on to Local Body concerned.

4. A tax rate of 0.5 to 1% of the capital value is considered to be a normal rate on vacant urban land.
5. The following life-cycle vacant land tax system may be adopted in the case of subsequent sellers of vacant land. Under this system, the tax for 10 years may be collected at one go in the following manner. Any vacant urban land, at the time of transfer should have paid up one time tax for 10 years. During the first round of transfer, the seller should pay 10 years' taxes on the vacant land and this can be collected on the basis of present value computation at the range of rates indicated, depending on the resolution of the Local Body concerned. The value determined for land and property as per guidelines of Registration Department can be used for determining the amount due. The Registrar can collect this tax and pass it on directly to the local body concerned.

**Example:** If the land is assessed to have a capital value of Rs.10000, the present value of the taxes at 0.5 % for the next 10 years, discounted will be Rs.337.90.

#### **Pilgrim Tax:**

**2.2.73.** At present, pilgrim tax is collected in certain areas on the basis of the levy made by the local bodies. These places are to be notified as places of importance due to religious functions or festivals or some such reason. In certain cases, the levy is made throughout the year in the area where the people come for pilgrimage. In certain places, the levy is restricted to a particular period of the year when big festivals take place and large crowds assemble. In all these cases, pilgrim tax is levied as an addition to the railway ticket and is collected by the Railway authorities and passed on to the State Government which in turn would pass it on to the local body concerned. There are not many such Centres in Tamil Nadu which are levying this tax. Among the Corporations, Madurai falls under this category, collecting pilgrim tax. The rates of pilgrim tax are in force for many decades and no revision has been made.

**2.2.74.** Due to activities for promotion of tourism and due to the publicity about the famous temples and places of pilgrimage, tourism and pilgrimage have increased substantially over a period of ten years. In Tamil Nadu alone, the season at Courtallam, Kodaikanal, Ootacamund and Yercaud has attracted a large number of people during a particular part of every year. The local bodies of such places of tourist importance are naturally expected to make provision of civic facilities not only for the local public but also for the floating population which at times far outnumber the local population. They have to make additional facilities and also have to increase the existing facilities to meet the

needs of the tourists during the seasons. Similarly in the case of temple towns also, the number of pilgrims has substantially increased. During the season when the pilgrims go to Sabarimala and return, they visit almost all the temple towns in the southern part of Tamil Nadu, because they ordinarily engage tourist buses and visit all places of importance in the State. This increases the floating population of those places and the local bodies have to make provision for the civic facilities of large number of pilgrims by way of addition to the existing facilities. The roads of these local bodies are put to heavy usage during this period of pilgrimage and additional responsibility is cast on the local bodies to maintain the roads in proper condition. The supply of drinking water to the pilgrims and floating population is also a task faced by the local body concerned.

**2.2.75.** In order to make the local bodies realise additional revenue, it could be recommended that the following types of places can be allowed to impose pilgrim /or similiar type of tax:

1. Places of holiday resorts and seasonal specialities;
2. Temple towns;
3. Places of geological or archaeological importance;

**2.2.76.** One way of realising this levy is to expand the scope of the tax which may be modified and given some other nomenclature instead of its present pilgrim/Tourist tax and the levy may also be made on the bus passengers by way of an addition to the bus tickets. The tax on the bus passengers can be collected at the place of pilgrimage or the place of importance on their return journey. A stamp on the back of the ticket or a printed token accompanying the ticket may be issued, in token of the collection of the pilgrim tax. This particular stamp or the tokens may be made available to the Transport Corporations or the private bus owners every month or as and when the need arises periodically. The amount of pilgrim/Tourist tax may be collected in a lump sum from the Transport Corporations or the fleet owners once a month based on the capacity of the buses and number of trips per day at Rs.100 - 150 per trip. This will relieve the local body of the task of identifying the individual pilgrims or tourists. The rate can be fixed after taking into account the average number of visitors making visit to the particular place.

**2.2.77.** In the alternative, a flat rate can be levied per bus per trip to the area based on the seating capacity of the bus, and the amount collected from the Transport Corporation or the fleet owners, allowing them to collect the pilgrim tax from the passengers. It may be seen that barring these Transport Corporation buses and private buses, people throng to the places of pilgrimage and other importance in vans, lorries and also by engaging private vehicles like vans and cars etc. The local bodies may make their own arrangements to collect the pilgrim/Tourist tax from those who visit the place in such vehicles at the entry point of the local body or town concerned.

**Table 2.15. Pilgrim Tax:Rate proposed for Private Vehicles.**

VEHICLE TYPE	TAX
Bicycles and Two wheelers	Exempted
Private Cars and Taxi Cabs	Rs.10 - Rs. 25
Vans, lorries etc., carrying people	Rs.25 - Rs. 50
Private Tourist Buses	Rs.100 - Rs.200

**2.2.78. Recommendations**

**SFC recommends the following:**

1. Pilgrim tax or a similar tax may be levied in respect of  
(1)places of holiday resorts and seasonal specialities  
(2) temple towns  
(3)places of geological or archaeological importance.
2. Scope of the tax may be modified by giving some other nomenclature.
3. Identification of the areas falling within the three categories should be notified by Government with identification of seasons when these centres attract pilgrims/tourists.
4. Tax may be levied for the seasonal period at higher rates or can be uniformly levied at a lesser rate throughout the year. The scope of collection of Pilgrim Tax to cover both railway and bus passengers may be notified. In the case of bus and railways, notification of rates can be made.
5. Such tax on bus passengers may be levied as on addition to bus fares. It may be collected at the place of pilgrimage/tourism on their return journey. A stamp on the back side of the ticket or the issue of separate tokens will ensure collection of tax. The stamp or the tokens may be made available to the Transport Corporations or private bus owners periodically or as and when necessary.
6. The amount of Pilgrim/Tourist Tax may be collected in a lump sum from Transport Corporations or fleet owners once in a month based on the capacity of the buses and the number of daily trips at Rs.100-150 per trip ( i.e.

Rs.2-3 per passenger on an average). This will relieve the Local Body of the task of identifying individual pilgrims and tourists. The rate can be fixed after taking into account the average number of visitors to the place.

Or in the alternative:

7. A flat rate can be levied per bus per trip based on the seating capacity of the bus and the amount can be collected from the Transport Corporations or the fleet owners, allowing them to collect pilgrim tax from the passengers.
8. Regarding people visiting the tourist or pilgrim centres in vans, lorries and private vehicles, cars etc., the Local Bodies may make their own arrangements to collect the tax.
9. Rates recommended for private vehicles are as follows:-

Bicycles and Two wheelers	No tax
Private cars and taxi cabs	Rs. 10 to Rs.25 per trip
Vans, lorries etc.	Rs. 25 to Rs.50 per trip
Private Tourist Buses	Rs. 100 to Rs.200 per trip

#### Assigned Taxes and Revenues:

2.2.79. The assigned revenues are derived in two parts; one from taxes or duties assigned to local bodies for levy but collected by the Government and passed on to the local bodies after deduction of collection charges; and the other from taxes or duties levied by the Government and collected by the Government and the proceeds shared between the local bodies and the Government. The following are the assigned revenues available to the Municipal Corporations:

1. Surcharge on duties on transfers of property;
2. Entertainments Tax;
3. Surcharge on Sales Tax;
4. Lease of minor minerals.
5. Toll Compensation

2.2.80. The details of Revenue on the above in 1993-94 are given below:

**Table No.2.16 Municipal Corporations - Details of Assigned Revenues by sources**

	Coimbatore		Chennai		Madurai		Salem		Trichy		Tirunelveli		All Corporations	
	Amount	Percap	Amount	Percap.	Amount	Percap.	Amount	Percap.	Amount	Percap.	Amount	Percap.	Amount	Percap.
<b>Surchar.</b>														
Stampduty	3.71	45.39	25.34	65.96	1.63	17.34	1.27	21.35	1.88	28.15	0.55	14.57	34.37	47.51
%	46.87		42.27		25.51		33.36		40.26		31.87		40.71	
<b>Adl.Sur.on</b>														
Saletax	0	0.00	22.80	59.35	1.83	19.45	0	0.00	0	0.00	0	0.00	24.63	34.04
%	0.00		38.03		28.61		0.00		0.00		0.00		29.17	
<b>Entertainment</b>														
tax	4.20	51.44	11.77	30.64	2.94	31.19	2.52	42.48	2.78	41.64	1.16	31.00	25.37	35.07
%	53.13		19.63		45.88		66.37		59.55		67.80		30.05	
<b>Toll</b>														
Compensation	0	0.00	0.04	0.10	0	0.00	0.01	0.18	0.08	0.13	0.05	0.15	0.06	0.09
%	0.00		0.06		0.00		0.27		0.19		0.33		0.07	
<b>Total</b>	7.91	96.83	59.95	156.05	6.40	67.99	3.80	64.01	4.67	69.92	1.72	45.72	84.43	116.70
%	100.00		00.00		100.00		100.00		100.00		100.00		100.00	

(Amounts in Rs. Crores and per capita figures in rupees)

**Surcharge on duty on transfers of property:**

2.2.81. Under the enactments of the Chennai City Municipal Corporation Act and the other Municipal Corporation Acts, and also under District Municipalities Act 1920 and Tamil Nadu Panchayats Act 1994, a surcharge is levied on the duty on transfer of immovable property. Prior to 1-7-1976, the amount of consideration involved in the transaction was the basis for levy of stamp duty and the surcharge but it was replaced by market value thereafter. The amount realized as surcharge on market value of properties involved in the transfer is transferred to the respective local body after retaining a percentage as collection charges. This levy is limited to five types of instruments indicated in the Local Bodies Act. The rate of levy is fixed as not exceeding 5 per cent of the value specified in the instrument. The types of instruments and the amount on which duty is to be levied are extracted below:

1. Sale of immovable property

The market value of the property as set forth in the instrument and in a case where the market value is finally determined by any authority under section 47A of the Indian Stamp Act 1899 (Central Act II of 1899), the market value as so determined by such authority.

- |   |  |
|---|--|
| 2. Exchange of immovable property                 | The market value of the property of the greater value as set forth in the instrument and in a case where the market value is finally determined by any authority under Sec.47A of the Indian Stamp Act 1899, (Central Act II of 1899) the market value as so determined by such authority. |
| 3. Gift of immovable property                     | The market value of the property of the greater value as set forth in the instrument and in a case where the market value is finally determined by any authority under Sec.47A of the Indian Stamp Act 1899, (Central Act II of 1899) the market value as so determined by such authority. |
| 4. Mortgage with possession of immovable Property | The amount secured by the mortgage as set forth in the instrument.   |
| 5. Lease in perpetuity of immovable property      | An amount equal to one-sixth of the whole amount or value of the rents which would be paid or delivered in respect of the first fifty years of the lease as set forth in the instrument.   |

**2.2.82.** The levy is effected by the Registration Department along with the stamp duty and credited to Government funds. In Tamil Nadu, in Chennai Municipal Corporation area, a stamp duty of 8 per cent and surcharge of 5 per cent are being collected in respect of the above mentioned types of instruments. The Government retains the stamp duty of 8 per cent and distributes the amount of surcharge viz., 5 per cent after deducting collection charges. The amount payable to the Chennai Corporation is straight-away passed on by the Inspector General of Registration to the Corporation in quarterly intervals. In the case of other Corporations and other Local Bodies the stamp duty is 7 per cent while the surcharge is 5 per cent. Here also the Government retains the stamp duty of 7 per cent and distributes the remaining surcharge of 5 per cent after deducting collection charges to the local body concerned through the Collector of the District. The District Registrar intimates the amounts due, to the Collector and the Collector sanctions, draw and adjust the money to the concerned local body.

**2.2.83.** This source of income accounts for about 12 per cent of the total income of all the Corporations and works out to Rs.47.5 per capita in 1993-94. The average income from this source among the Corporations ranges from Rs.13 per capita in Tirunelveli to Rs.51 per capita in Chennai.



**2.2.84.** During the discussion with the department it was informed that the market value is fixed based on the guideline value of the property adopted from time to time in the local Register's Office. It is also understood that this guideline value is being updated every year. Wherever it is necessary for verification of the value fixed according to the guidelines, it is being done by the higher level officers of the department and it is duly communicated to the Registrar concerned. But it was also made known that so far no statutory backing is available for the adoption of such guideline value which has been prescribed as the proper indication of the market value of the property to avoid the evasion of duty by under-valuation of the instruments. It was also pointed out that if the system is statutorily authorized, there will be legal backing for enforcing these guideline values. When that is done, the guideline value can also be taken for adoption by the local bodies whenever they have to resort to valuation on capital value basis for fixing the annual rental value of the properties or for arriving at the rental value. A closely co-ordinated effort between the local body and the Registration Department would help eliminating discretion likely to arise even in the fixation of guideline value within the local body area. The local body has more interest in this matter since the local body is the direct beneficiary of the surcharge levied on the value of the property.

**2.2.85.** The income from stamp duty and surcharge is stated to have reached Rs.700 crores during 1995-96. It is stated that there is still scope for further substantial increase, if proper safeguards are taken in the fixation of value and for prohibiting the flight of documents to the neighbouring States to avoid payment of higher duty in Tamil Nadu. The Government may consider rationalising the rate of levy by widening the base to prohibit flight of documents.

**2.2.86.** Another important point raised during the discussion was about the high-rise buildings where proper valuation of the flats could not be enforced. Most of the real estate promoters adopt the value for the undivided share of land and register the documents of sale in respect of such land to the purchasers and the cost of the building is completely avoided from the ambit of duty. The flats are sold only after completion of construction and after provision of all basic facilities by the promoter. Taking advantage of the loopholes in the legal provisions, the promoters treat the construction as a separate component and register the undivided share of the land only in favour of the purchaser of the flat. Similar problem which arose in Karnataka State was amicably settled and duty is being collected on the cost of the building as well as the land in Karnataka State. This is stated to have yielded a considerable increase in the duty payable to the Government. There was a similar problem in Maharashtra State also but the Tamil Nadu Registration Department has pointed out that the system adopted in Maharashtra State may not be suitable to the conditions prevailing in Tamil Nadu. Therefore, the stamp duty on transfer of such high-rise buildings can be fixed by adopting the Karnataka pattern. Thereby there will be a sizeable increase in the duty and surcharge collected.

**2.2.87.** It was also indicated that there should be some kind of restrictions in providing facilities like water supply, electricity, and drainage connections only on the basis of registered documents relating to the buildings and not on the basis of the

documents in respect of the land. But these points need to be studied in detail before arriving at a conclusion on the legal provisions needed for enforcing the suggestions. Anyway, the State Finance Commission would like to bring to the notice of the Government the huge evasion of stamp duty and surcharge in the case of transfers of the above high-rise buildings so that the Government may think of bringing in proper legislative enactments and rules thereunder to curb the evasion.

**2.2.88.** In this context, it will be pertinent to point out that it is the real estate promoter who is benefited by the high price and who also paves the way for evasion of payment of stamp duty on documents by the buyers. Some method has to be found out to ensure that the promoters are properly taxed, without affecting the buyers who have to make large investments for purchase of the property and at the same time, have to pay heavy stamp duty and surcharge. It may also be suggested that in the cases where undivided share of a land is sought to be transferred, the departmental representative of the Registration Department and the local body should make an inspection of the property to find out whether any construction has been put up in the land by the date of such transfer and registration of the document. In cases where the buildings have been put up, the Registration Department should be empowered to include the cost or market value of the building also in the transfer document for the purpose of collection of stamp duty and surcharge. There may be a genuine objection to the effect that the buyer of mere house site should not be charged with stamp duty for the building he is going to construct or he has constructed after the purchase of the house site. This is quite acceptable in the case of an individual purchaser of a house site and the construction of the building started after the buying of the land. In reality, the real estate promoters do not give possession of the land, be it the whole or be it an undivided share of the land, but give possession of only the flat after completing the construction and hence there is vast difference between the construction put up by a single owner and the construction put up by a flat promoter. In this context, the State Finance Commission recommends a study of the existing pattern in Karnataka State and its acceptance, with suitable modifications or amendments to the provisions of law.

#### **Flight of documents:**

**2.2.89.** One of the methods of evasion of stamp duty is to register the documents in the neighboring States where either the rate of duty is less or where the Registering Officer takes into account only the value as stated in the document for the purpose of levy of stamp duty. In all these cases of registration outside the State, the normal procedure to be adopted is that a copy of the document should be sent to the concerned Registering authority in Tamil Nadu for the purpose of indexing. But this procedure is not followed and the indexing takes place very rarely. On the other hand, the indexing is done along with some other transaction over that property by way of a mortgage and its subsequent discharge. By this method, the Registering Officer is compelled to have the indexing done along with the subsequent transactions over the same property. It was suggested by the Registration Department that any document so registered outside the State and not received within the stipulated date for the purpose of indexing should face

annulment and this will compel the production of document or the receipt of information within the stipulated time for the purpose of indexing. In all such cases, re-registration of the document after collecting the difference in stamp duty and surcharge as applicable in Tamil Nadu may be suggested. Even if the document is not produced in time for indexing or re-registration, the Registering Officer should be given powers to collect the difference in stamp duty and surcharge whenever the document comes before him, treating it as an insufficiently stamped instrument. Such a procedure is adopted by the Courts when an unstamped or insufficiently stamped document is sought to be produced in Court and stamp duty and penalty are collected before admitting such a document in evidence. It was also pointed out that because of the flight of documents to the neighbouring States, both the State Government and the Local Bodies lose substantial revenue. This problem is being faced for a number of years and is being discussed in many a forum and a solution should necessarily be found. The re-registration may be made compulsory for the value as per guidelines. The Tamil Nadu Government have recently brought legislation to this effect.

**2.2.90.** In some States, the total stamp duty collected is made available to the local bodies but a perusal of the rates prevailing in some of the States shows that they are far below the rates of Tamil Nadu. Further in Tamil Nadu there is a levy of surcharge in addition to the stamp duty and the income from Stamp Duty and Surcharge are separately earmarked for the State and the Local Bodies respectively. In such circumstances, the State Finance Commission does not feel it necessary to pass on the income from stamp duty also to the local bodies. This source of revenue is a major contributor to local body finance and there is much scope for increasing the revenue under this head by plugging the loopholes and by checking evasions. The suggestions made in the earlier paragraphs need consideration urgently.

**Procedure for adjustment:**

**2.2.91.** As explained earlier, except in the Chennai Corporation, the money due to the local bodies is worked out by the District Registrar concerned, local body-wise, and passed on to the Collector for adjustment to the respective local bodies. In this, the Collector has no part to play except to draw and forward the amount to the respective local body, which involves a time-lag of minimum one or two months. During the discussion with the representatives of the local bodies and also during the consultation with the department, it was agreed that there is no need for routing the amount through the Collector. In the case of Entertainments Tax the Commercial Tax Officer concerned distributes the amount to the local bodies directly and the local body concerned takes credit for the money in the treasury on the basis of the distribution order of the Commercial Tax Officer by presenting necessary bills. A similar procedure can be followed for adjustment of the surcharge on stamp duty also requiring the District Registrar to indicate the distribution for the various local bodies in the order with permission to the local bodies to get credit to their accounts in the treasuries by presenting necessary bills. This will expedite the adjustment procedure and avoid unnecessary delay.

## **2.2.92. Recommendations:**

### **SFC recommends the following:**

- 1.** The Government may consider giving legal backing for issue of periodical guidelines, on value of properties to be adopted for registration ( now being followed by deciding regular common principle).
- 2.** It is brought to notice of the Government that huge evasion of stamp duty and surcharge is observed in the case of transfers of high-rise buildings. The Government may consider bringing in a proper legislation to curb this evasion.
- 3.** A study of the pattern adopted in Karnataka State to levy stamp duty on built-up area in high-rise buildings for adoption with suitable modifications. Amendments to the provisions of law are needed in this regard.
- 4.** Regarding flight of documents to neighbouring States for registration, the re-registration of the documents may be made compulsory as per the value of land obtaining in Tamil Nadu with reference to the guidelines. (Government of Tamil Nadu have already initiated action) The Government may also consider rationalising the rate of levy by widening the base to avoid flight of documents to nearby States.
- 5.** There is much scope for increasing revenue by plugging the loopholes and by checking evasions.
- 6.** The procedure similar to the one adopted in the case of Entertainments Tax may be adopted for adjustment of the revenue to local bodies.
- 7.** The District Registrar may indicate the distribution for the various local bodies as is done now and authorise the local body concerned to get credit in their accounts in the Treasuries by drawing necessary bills. This will expedite early adjustments and avoid unnecessary delay. The system of routing adjustment through the Collector may be dispensed with.

## **Entertainment Tax:**

**2.2.93.** The Tamil Nadu Entertainment Tax Act 1939 and the Tamil Nadu Local Authorities Finance Act 1961 regulate the levy of Entertainments Tax on entertainment like cinema, horse races, etc. The basic tax and additional surcharge are levied under the 1939 Act while the surcharge is levied under the 1961 Act. Till 30.6.89 the entertainment tax ranged from 25 to 40 % of the payment for admission and the surcharge on Entertainment Tax was 100 % of the tax payable on the ticket. The additional surcharge ranged from 5 paise to 50 paise depending on the total payment for admission, tax and surcharge put together. Show tax was imposed in 1949 and up to 30.6.89 this was Rs.5 per show for theatres located in Corporation areas and Rs.2 in other areas. The surcharge on Show Tax was 150 % of the Show Tax. The additional surcharge on Show Tax varied between Rs.27.50 per show and Rs.5 per show. The Tamil Nadu Local Authorities Finance Act 1961 was enacted to enable the local bodies to levy a surcharge on Entertainments Tax and Show Tax. Till 1.4.70 the surcharge on Show Tax was 300 %. The Tamil Nadu Entertainments Tax Act and the Tamil Nadu Local Authorities Finance Act were amended by Act 40 of 1989 which came into force from 1.7.89 and the taxation structure of entertainments, other than horse races, was completely revised. Section 13 of the Entertainments Tax Act 1989 dispensed with the provision of Tamil Nadu Local Authorities Finance Act 1961 and one consolidated levy of Entertainments Tax including the surcharge previously levied under the Local Authorities Finance Act 1961 was prescribed. The tax varied according to location and type of theatre. In the Municipal Corporation areas like Chennai, Madurai and Coimbatore the tax was 40 % of the gross payment for admission inclusive of the amount of tax. Under section 4 of the Act, this was made applicable to the cinemas situated in the peripheral areas of the Corporation within 5 KM. The tax in Corporation areas was thus based on actual collections. In Municipal and Panchayat areas, the tax was levied under two methods, one by gross collection capacity and the other by compounding method. Here also the method of taxation varied according to location, type of the local body and the nature of the theatre. and tax was expressed as a percentage of the gross collection capacity. It varied from 30% to 60% depending upon the nature of the theatres. This was further related to the number of shows. An option was given to the owners of the theatres to choose the taxation on compounding system which envisaged a certain number of presumptive shows per week and a compounded rate fixed per week. The compounded rate has to be paid irrespective of the actual number of shows exhibited. The percentages were calculated on the gross collection capacity and multiplied by the presumptive number of shows. Here also the rate of tax and number of shows varied depending upon the location and nature of the theatre. The variation was between 26% to 13%. The presumptive number of shows also varied from 23 to 12 for a week. The managements of the cinema theatres were given freedom to fix the rates of admission with effect from 28.10.1994.

**2.2.94.** The Entertainments Tax Act was amended by Tamil Nadu Act 37 of 1994 to enable the levy of tax on television exhibition through cable network. By Act 38 of 1994 the tax on dubbed films was also raised by 10%. In respect of television exhibitions the tax was 40% of the gross receipts which was made on the contribution, or subscription

or installation or connection charges or any other charges collected by the operators. This came into force from 1-9-94. Prior to 1-7-89, the revenue realised from Entertainments Tax was shared between the State and the local bodies at 90% and 10% respectively. The proceeds from Show Tax and from the additional surcharge on Entertainments Tax and Show Tax were retained fully by the State. The entire collections from surcharge on Entertainments Tax and surcharge on Show Tax were passed on to local bodies. From 1.7.89 onwards, in view of the composite levy including the surcharge, the sharing pattern was revised as below:

**2.2.95.** Under Section 4, 30% goes to Government and 70% to Local Bodies (Municipal Corporation areas). Under Section 5A & 5B; the distribution to other Local Bodies is as below:

	Government	Municipalities & other Local Bodies
(i) I Grade and Selection Grade Municipalities	35%	65%
(ii) II Grade and III Grade Municipalities	35%	65%
(iii) Panchayats	40%	
Panchayat Union Councils		30%
Panchayats		30%
(iv) Panchayat Townships and Municipal Townships	35%	65%

Coming to the income realised, a study was made by the Tamil Nadu Institute of Urban Studies which has indicated the proportion of sharing between the local bodies, Government and the owner as discussed in ensuing paragraphs:

**2.2.96.** In respect of Special Grade Municipalities and Corporations the Entertainments Tax accrual to the local body was as below:

**Table 2.17. Entertainment Tax accrual to Corporations & Special Grade Municipalities**

	Before 1.7.89		From 1.7.89	
	% to actual gross collection capacity		% to actual gross collection capacity	
E.T.	18.22	36.44	49.60	28% Municipality
S.C.on E.T.	18.22			
A.S.C. E.T.	13.16			12% Government
Net to Theatre owner		50.40		60%

The share of Municipality came down from 36 to 28% (about 22% fall)

2.2.97. In respect of Municipalities in Selection Grade, I Grade, II Grade, III Grade and Township Committees also the position is similar since the introduction of compounding system:

**Table 2.18. Entertainment Tax accrual to other Municipalities**

	Before compounding system (% of actual gross Collection)	
	Before 1.7.89	From 1.7.89
Municipality:E.T.	18.22	
S.C.on E.T.	18.22	36.44
Government:A.S.C./E.T.	13.16	13.16
<b>Total</b>	<b>49.60</b>	<b>49.60</b>
Total taxes		49.60
Net to Theatre Owner		50.40

2.2.98. After the introduction of compounding system of tax the share of local bodies and Government is as follows:

**Table 2.19. Entertainment Tax accrual to Municipalities after Compounding**

	Prior to Compounding	Per show basis	Per week basis
Municipality	36.44%	16.2 to 21 %	13.2 to 18 %
Government	13.16%	10.8 to 14 %	8.8 to 12 %
	<b>49.60 %</b>	<b>27.0</b>	<b>35% 22.0 30%</b>
Theatre owner	50.40 %	65 to 73 %	70 to 78%

It may be seen that the share of the local body has fallen steeply by about 50%

2.2.99. It has thus been indicated in the said study that the share due to the Municipal Corporations and Special Grade Municipalities came down from 36 to 28 %. In the case of other local bodies, the share due to local bodies has fallen by about 50%. It has also been pointed out by the said study that the share of the local bodies from this source was declining gradually from 1948 (90%) and finally it was reduced to 60 % in 1989. Cinema theatres are not attracting much crowds at present because of the influence of TV, Video Cassettes, VCR, VCP and Cable TVs. This has affected the collection in cinema theatres and correspondingly the income from this source is further declining. In view of the amendment in 1994 there may be collection of some tax from the cable

operators and it is hoped that the loss of income due to reduction of collection in cinema theatres could be off-set at least to some extent. However, the fact remains that in the guise of compounding, the share of income enjoyed by the local bodies has got reduced. This tax was considered to be one of the buoyant taxes with the local bodies but the various concessions and changes in the tax structure have materially affected the income of the local bodies under this head. In many States the Entertainments Tax has been authorised to be levied by the local bodies themselves. However, with a view to achieving uniformity in the whole State in relation to method and levy, the levy is made by the State Government and this has to be retained. However as this happens to be one of the local taxes, the benefits derived from this taxation go to the local bodies in entirety subject to a deduction of only the collection charges. The State Finance Commission therefore recommends the assignment of 90 % of the realisations out of this tax to the local bodies.

#### **2.2.100. Recommendations**

**SFC recommends the following:**

1. This tax being earmarked as one of the local taxes, the benefits should go to the local bodies in entirety subject to deduction of only collection charges.
2. The assignment should be 90 % of the total realisations of this compounded Tax to the Local Bodies.
3. Any concessions/remissions in the tax affecting local bodies may be resorted to by Government after consulting the Local Bodies.

#### **SURCHARGE ON SALES TAX**

**2.2.101.** The present General Sales Tax Act 1959 was enacted replacing the earlier General Sales Tax Acts of 1939 and 1956. The surcharge on Sales Tax is regulated by the Tamil Nadu Sales Tax Surcharge Act 1971. The rates of surcharge have undergone changes from 1971 onwards depending upon the areas. Finally as per Act 20 of 1990, the rate of surcharge leviable from 1.4.91 was 15 % in Chennai Corporation, 12 % in other Corporations and Special Grade Municipalities and 10 % in other Municipal areas and 8 % in all other areas. The rate of surcharge was further revised on a uniform basis as per Tamil Nadu Act 36 of 1991 at 15 %. It is seen that the total surcharge so collected was proposed to be distributed as detailed below: 50 % of the realisations from Chennai Corporation area will go to Chennai Corporation. 20 % of the realisations will be allocated to Municipalities and Corporations of Madurai and Coimbatore on a sharing formula as below:



1. Directly on population basis 50%
2. On per capita own revenue realised basis 25%
3. As gap grant to bridge real deficit 25%

**2.2.102.** This formula had to be up-dated based on 1991 Census figures. For the year 1993-94, the Government sanctioned assignment of surcharge on sales tax on an ad hoc basis. The additional surcharge was also levied as a percentage on the general sales tax payable with effect from 1.7.89 at 4 %. This levy was modified as 5 % in Chennai and suburban areas from 10.6.1981 to 31.8.1989. The levy of additional surcharge at 5 % was extended to Coimbatore and Madurai and suburban areas for 16 KM. This levy of additional surcharge was abolished from 1.4.89 to 30.6.89. From 1.7.89 onwards the additional surcharge at 5 % was levied only in Chennai and up to 32 KMs. from the peripheral limits of Chennai. It was explained that this amount has been earmarked by the Government for meeting the project cost of the new water supply scheme from Krishna River. However it was not passed on to Metro Water but retained with the Government. Committee on Rural Urban relationship 1966 recommended that when the octroi is not levied, a surcharge not exceeding 25% on the Sales Tax may be levied, for distribution to Local Bodies. It is felt that instead of the levy of octroi which is in force in northern States like Maharashtra, U.P. & M.P the surcharge levied by Tamil Nadu Government could be an alternative tax to Local Bodies in Tamil Nadu. It was also noticed with reference to budget speech in 1989-90, that the proceeds out of this source was intended to be passed on to the local bodies. This was subsequently modified in the budget speech 1990-91 and partial apportionments were indicated. This has been further explained in later paragraphs.

**2.2.103.** The funds realised out of this surcharge for the last three years and the amounts distributed to the local bodies out of that, are indicated below:

**Table 2. 20. Details of Surcharge on Sales Tax - Collection and Adjustment to Local Bodies**

	1991-92	1992-93	1993-94
			(Rs. in crores)
Amount realised	189.88	221.66	215.03
Amount adjusted to Local body	—	110.50	38.21

**2.2.104.** It can be seen from the above that the amount passed on to local bodies is very low compared to the level of taxation. The local bodies have been making claims for a share in the Sales Tax since the local bodies have to contribute for the proper servicing in the market and other business areas which contribute to a great extent to the collection of a large volume of sales tax. Even if the portion of sales tax is not passed on, at least the surcharge levied and realised should be totally made available to the local bodies. In this context another important factor will have to be borne in mind. Due to lopsided economic development, most of the proceeds under Sales Tax are likely to accrue to larger cities where the spending power of the people is high and in fact Chennai

Corporation could claim the highest percentage. Another factor is that the headquarters of many Companies are located mostly in Chennai City and the origin of collection of sales tax on a large volume of goods and merchandise sold in the State as well as surcharge on it will be stated to be Chennai. Hence the principle of origin should not be applied as the major criterion for sharing the revenue.

**2.2.105.** Now the S.T.surcharge has been merged with Sales Tax and only single Tax is levied. The proportionate amount of Sales Tax equivalent to former surcharge i.e. 15% of the Sales Tax may be made available to Local Bodies.

**Sharing pattern now available:**

**2.2.106.** As indicated earlier, the sharing pattern adopted by the Government is as follows:

Chennai Corporation : 50 % of the realisations in Chennai City.

The balance is to be pooled and distributed between other Corporations and Municipalities: 20% of pool.

In this formula the contributions due to the **Town Panchayats and Rural local bodies** have been completely left out. However, from the Government Orders issued during 1995-96 it is seen that fixed ad hoc amount has been allocated to the Town Panchayats and the Village Panchayats.

**2.2.107.** The present system of sharing does not therefore appear to be on any equitable principle. The Task Force on Resources has suggested the division of surcharge as below:30 % of the surcharge on sales tax realised should be passed on to the local bodies of origin. 70 % of the surcharge should be brought under a divisible pool which should be subjected to the formula-based sharing with all other local bodies. They have also made a recommendation for passing on the additional surcharge on sales tax to Chennai City and area within 32 KMs. of Chennai. Since the additional surcharge was indicated for a specific purpose. SFC does not consider that portion for any distribution. The SFC considers that the total share may be taken to divisible pool. The general principle for distribution is discussed in Part V.

**2.2.108. Recommendation:**

SFC recommends that since the surcharge on Sales Tax levied has been merged with the compounded Sales Tax, 15% of the compounded tax (equivalent to the rate of surcharge previously levied) may be assigned to Local Bodies and taken to a divisible pool.

### **Toll Compensation:**

**2.2.109.** Toll Compensation was paid in lieu of toll collected before introduction of Motor Vehicle Tax. This will depend on the decision regarding sharing of Motor Vehicle Tax dealt with in later paragraph.

### **Recommendation**

SFC considers that since share of Motor Vehicles tax is being recommended for divisible pool, no separate toll compensation will be necessary after the pool is created.

### **New Tax domains:**

**2.2.110** A few items as new tax domains are suggested and they are : (i) Advertisement tax for hoardings; (ii) Cable TV Tax; They are discussed in ensuing paragraphs.

### **Advertisement Tax:**

**2.2.111.** In Chennai Corporation and in Municipalities in Kanyakumari District Advertisement tax is already being levied. In other Corporations and Municipalities, advertisement charges are being collected in the form of licence fees at different rates for different types of advertisements. But there is no uniformity in the rates or methods of collection. Advertisements have gained a more important role in promoting and marketing of products and services. Advertisement through hoardings has increased and has generally, been accepted even in rural areas. Many advertising agencies have come to take hoardings on lease basis.

**2.2.112.** It has been indicated to SFC that a hoarding of the size of 20 feet x 20 feet is now fetching a minimum of Rs.12 per square foot and a maximum of Rs.15 per square foot for a period of one month. It has also been indicated that the rent to be realised roughly works out to Rs. 4800 to Rs.6000 per month. In such cases of leasing of hoardings, the painting of the message is free; and if it is otherwise, the cost of painting the message, at Rs.4.50 per sq.ft. is being deducted. The cost of the hoarding of the above size is estimated at Rs.67,000/-,(which consists of the income to lessor Rs.25,000/-, cost of fabrication and erection Rs.40,000/-, and the cost of painting of message Rs.2,000/-) On the basis of this yardstick, the following classifications and levy for advertisements through the hoardings are recommended. The following is the suggested classification and rate of levy of tax:

**Table 2.21. Advertisement Tax : Suggested Classification and Rates of Levy**

Classification		Basic rate of tax	
(a) Size	(i)	Below 200 s.ft.	Rs.1.00 / s.ft.
	(ii)	Above 200 s.ft.	Rs.1.50 / s.ft.
(b) Location (increase)	(i)	Chennai & Coimbatore Corporations	250%
	(ii)	Other Corporations	200%
	(iii)	Municipalities	175%
	(iv)	Town Panchayats	150%
(c) Type	(i)	High-rise	Rs.1000/-
	(ii)	Others	Rs.500/-
(d) Message	(i)	Social	Rs.100/-
	(ii)	Commerical	Rs.500/-

2.2.113. The hoarding is a fast growing and high revenue yielding industry in metropolitan cities and bigger towns. Even in smaller towns hoardings are used for advertisement but their number is small and it is only a matter of time that this industry picks up even in smaller towns. The levy of this Advertisement tax will not only yield revenue but will also help in the regulation of the hoardings in accordance with the social objectives and in restricting the spurt of indecent hoardings which are offensive to the society as a whole. The revenue implications from out of this source could not be clearly estimated for want of information about the existing number of such hoardings and their sizes. Within the jurisdiction of the Chennai Corporation, the hoardings are controlled by a Committee under the chairmanship of the Collector instead of by the Corporation. In all fairness, this should be under the control of the Corporation/Local Bodies and the revenue earned should go to the Local Body concerned. Similarly, all the hoardings in the Highways it is stated, are controlled by the Highways and Rural Works Department, and the revenue is also appropriated by that department. This type of licensing should be left to the Local Body within whose jurisdiction the hoardings are situated or located; and, if for any reason, for proper regulation, the Highways Department alone will have to do it, the yield must go only to the local body concerned after retaining collection charges. The local bodies may be required to take an inventory of all the hoardings within their limits, along with their sizes and types for ensuring a uniform method of levy. Though it may not be possible to adopt the same rate of levy both in Corporations/Municipalities/rural local bodies, the rates may be suitably prescribed by the local bodies concerned. The SFC recommends that the Government may prescribe a minimum and the maximum of the rates. Other types of advertisements through lamp posts and posters on wall and writing on walls, including compound walls through buses and vehicles also should be subjected to levy of Tax / Fee by the Local Body. Advertisement through slides in cinema houses was being levied by Government but has been discontinued. This should also be revived. Generally all types of Advertisement except through newspapers, and cut outs, should be brought under taxation.

## 2.2.114. Recommendations

The SFC recommends the following:

1. All the hoardings should be under the control of the concerned Local Bodies and the revenue earned should go to the Local Body concerned.
2. In the case of hoardings in Highways, the taxation may be permitted to be done by the Local Body within whose jurisdiction the hoardings are situated and provided for in the respective enactments.
3. If, in the interest of proper regulation, the Highways Department has to regulate the hoardings, the yield may be made available to the Local Body concerned, after retaining collection charges.
4. The Local Bodies may take an inventory of all the hoardings within their limits, with size and type for ensuring a uniform method of levy of tax.
5. The rates for different Local Bodies may be adopted within the minimum and the maximum suggested below.

Classification		Basic rate of tax	
(a)	Size	(i)	Below 200 s.ft.      Rs.1.00 / s.ft.
		(ii)	Above 200 s.ft.      Rs. 1.50 / s.ft.
(b)	Location (increase)	(i)	Chennai & Coimbatore Corporations      250%
		(ii)	Other Corporations      200%
		(iii)	Municipalities      175%
		(iv)	Town Panchayats      150%
(c)	Type	(i)	High-rise      Rs.1000
		(ii)	Others      Rs. 500
(d)	Message	(i)	Social      Rs. 100
		(ii)	Commercial      Rs. 500

**Computing the fees liability based on the table :**

Use the square foot rate to compute the base rate and to that add the charges pertaining to the locational parameters.

**Example:** A 20' X 20' highwise hoarding, in Chennai Corporation carrying a commercial message should yield Rs.3,000 per year.

6. Other types of advertisements through lamp posts and posters and writings on walls, including compound walls through buses and other vehicles, should also be subjected to levy of tax/fee by the Local Bodies.
7. Advertisement through slides in cinema houses was subjected to levy of Tax, but later on, it was discontinued. This levy may be revived.
8. All types of advertisements, except through newspapers and cut-outs, should be brought under taxation.

**2.2.115.** A few suggestions were made to SFC about the levy on the Cable TV operators since the demand for cable TV service is growing fast even in small towns. This activity can be taxed under three heads as detailed hereunder:

1. Licence fee of 2% on an investment of Rs.500000 for every 150 cable connections.
2. Leeway rights across and along local body roads for each connection at Rs.60 per year.
3. Cable TV Service to customers as Sales Tax for a charge of Rs.150 per cable connection.

**2.2.116.** However, it may be pointed out that the Tamil Nadu Government had already taken into account the Cable TV operators and by Act No.37 of 1994 had prescribed tax on television exhibition by cable system at 40% of the gross receipts which has been subsequently reduced to 20 % by an Act passed in 1995 with effect from 1st April 1995. This amount has been included in the Entertainments Tax which is shared by the Government with the local bodies. But the revenue now derived from the cable TV. when compared to rates suggested is likely to be very low. Though the Cable TV charges may be levied by the local body, since this has already been included as one of Components under the Entertainments Tax, this cannot now be separately levied by the local body. The Government may however permit Local Body to levy Leeway rights alone in all the roads in Local Body area for each connection at Rs.60/- per year from the operator. This levy also may be collected along with Entertainment Tax and the entire money passed on to the local body concerned, after retaining the collection charges, as in the case of Entertainments Tax.

### 2.2.117. Recommendations

1. Leeway rights roads on all in the local body area for each Cable T.V. connection at Rs.60 per year may be levied by Local Bodies.
2. The collection may be done by Government along with Entertainment tax. The entire money will be due to the Local Bodies, after retaining the collection charges.

#### New Assignments from state taxes:

2.2.118. Other sharable taxes from which the local bodies could claim reasonable share are as below:

1. Tax on luxuries in hotels and lodging houses.
2. Betting tax
3. State excise Revenue
4. Motor vehicles Tax
5. Agricultural Income Tax
6. Sugarcane cess
7. Urban land Tax
8. Terminal Taxes on goods or passengers carried by railways, sea or air.

They are discussed in detail hereunder.

#### Tax on luxuries in hotels and lodging houses:

2.2.119. The Government are levying a tax on luxuries provided in hotels and lodging houses based on the accommodation charges per room per day. The rate of levy as on 1.4.89 is as follows:

Table 2.22. Rate of Levy of Tax on Luxuries as on 1.4.89.

	<u>Percentage</u>
Where the accommodation charges for residence per room per day is	
1. not less than Rs.50 but less than rupees 100	10
2. not less than Rs.100 but less than Rs.200/-	15
3. Rs.200 or more	20

2.2.120. The income derived by the Government under this head is Rs.45 crores. The Hotels and lodging houses are normally liable for local taxation and therefore the above revenue should accrue to the local body concerned. Now the local bodies are levying only property tax on such buildings. Though it may be the intention of the

Government that the levy should be made by the Government to have an effective regulation of these hotels and lodging houses, there is justification for at least a portion of the income accruing to the local body concerned and accordingly SFC recommends at least 25% of the tax may be assigned to the concerned Local body. There are no firm figures available to arrive at the share due to the different local bodies from this revenue. This may be included for pooling and distribution

#### **2.2.121. Recommendation**

The SFC recommends that 25% of the income may be allocated to the local body for inclusion in general divisible pool for distribution to all local bodies.

#### **Betting Tax:**

2.2.122. Under the Tamil Nadu Betting Tax Act 1935 the Government are collecting the betting tax and surcharge in the venue of bettings. As far as Tamil Nadu is concerned inter venue betting is available at Chennai and Uthagamandalam enabling the bookers to bid for the race meetings held not only at Chennai but also at Hyderabad, Bangalore, Bombay, Calcutta, Mysore and Pune. The revenue derived from this source is about Rs.5.48 crores per year. A share of at least 25% out of this should normally be assigned to the local body concerned namely Chennai Corporation and Udhagamandalam Municipality.

#### **State Excise Revenue:**

2.2.123. The State Government is levying excise duties under the Tamil Nadu Prohibition Act 1937 and the Tamil Nadu Medicinal and toilet preparation Excise Duties act 1955. This levy includes the levy on IMFS and country liquor and other alcoholic items. The local bodies have been making claims for a share in this income since the local bodies have to take care of the environment in the respective areas. The total revenue under this head has risen from Rs.12 crores in 1980 to Rs.564 crores in 1992-93. The income during 1994-95 is Rs.614 crores. It is not possible to fix any specific percentage of sharing to the different types of local bodies and hence 25% of this revenue is recommended to be assigned and taken for General distribution from divisible pool to all local bodies.

#### **Motor Vehicles Tax:**

2.2.124. The Motor vehicles Taxation Act was introduced in 1931 at a time when the local bodies were collecting tolls on such vehicles in the respective area of local bodies. In those earlier days the District Boards and the Municipal Authorities and the Chennai Corporation were collecting such tolls. On the introduction of the Motor Vehicles Tax, the toll collection by the local bodies was abolished and the amount of toll collected during that period was given as Toll Compensation to the respective local bodies. It



could be seen that the total toll compensation now-available to the local bodies is only about Rs.100 lakhs. On the other hand the amount collected by the Government as Motor Vehicles Tax has been steadily increasing and the present income during the year 1994-95 has come to about Rs.333.57 crores. During the discussion with the departmental officers it was indicated that about 7% of the Motor Vehicle Tax collected is set apart as Rural Road Development Fund, from which amounts are given for improvement of rural roads through Highways and Rural Works Department. About Rs.20 crores is being sanctioned as Local Roads grant for Panchayat Union Roads only. But roads are maintained not only by the High ways Department but also by the various types of local bodies. The lengths of Roads in Local Bodies are as follows:

**Table 2.23 Details of Roads in Local Bodies**

Local Body	Length of road KM.
Municipal Corporation	4643
Municipality	6052
Town Panchayats	13312
Panchayat Unions	45504
Village Panchayats	104621
<b>Total</b>	<b>174132</b>

**2.2.125.** Motor vehicles are plying through all the roads, whether they are State, National or Local Bodies. With the increase in the number of motor vehicles, particularly with the onslaught of two-wheelers, the roads in local bodies are put to heavy wear and tear. The number of vehicles as on 1.1.96 is as follows:

**Table 2.24. Details of Motor Vehicles in Tamil Nadu as on 1.1.96.**

Stage carriages:(Public and Private)	21219
Contract carriages (Autos, Taxi cabs & Omni buses)	91250
Private services vehicles	4480
Goods carriages, lorries etc.	1,57,661
<b>Non Transport:</b>	
Motor Cycle	5,16,233
Scooter	3,79,499
Moped	11,36,257
Motor car	2,90,700
<b>Other Vehicles:</b>	
Station wagon, jeep etc.	83,566
	<u>26,80,865</u>

**2.2.126.** There is therefore every justification for the claim made by the local bodies to a reasonable share out of the Motor Vehicles Tax to enable them to maintain their roads in a tolerably good condition. At present, no Road Maintenance Grant is given to the urban local bodies. In the case of Panchayat Unions, local road grant is being given by the Government for maintenance of roads linking the villages which is also not adequate for yearly maintenance. The interior roads of the local bodies (Village Panchayats) have to be maintained only by the local bodies out of their slender resources. The level of maintenance of the roads in urban local bodies like Municipalities and Corporations has to be equal to the standard of the Highways Department since in the roads in urban areas, more number of buses and heavy motor vehicles are plying. The local bodies have been claiming 50 % of the amount of collection under the Motor Vehicles Tax to be set apart for distribution among the local bodies.

**2.2.127.** The cost of maintenance of the Local Body Roads as per the norms prescribed by Highways and Rural Works Department and as computed by Task Force works out to Rs. Rs.216.32 crores at normative level for 95-96. The share from this tax will therefore help the local bodies in achieving at least to some extent the proper maintenance of the roads. The State Finance Commission, taking into consideration the higher responsibility of State Government in respect of the State Highways, recommends that at least 40% of the Motor Vehicles Tax collection should be set apart by the Government for sharing through divisible pool among the various types of local bodies. Suitable norms are being indicated by the State Finance Commission separately for distribution among local bodies. Toll compensation now available may be withdrawn after this allocation.

#### **Agricultural Income Tax:**

**2.2.128.** The Agricultural Income Tax is levied by the State Government under the provisions of the relevant Act of 1955. Initially the tax was confined to the agricultural income derived from the plantation crops. In 1958 the scope of tax was enlarged to enable the levy on non-plantation crops also. But from 1.4.92, the tax on non-plantation crops has been abolished. The levy is based on income or on compounding basis. The income from this source has increased substantially in 1991-92 and subsequently there is a decline. About Rs.17 crores is realised as revenue from this source per year. This tax is mostly collected from hilly areas where plantation crops are usually raised. The local bodies covering such hilly areas are in districts like the Nilgiris, Salem, Coimbatore, Madurai, Dindigul-Mannar Thirumalai . These local bodies have to spend heavy amounts for the maintenance of roads and for provision of lighting etc., and their income from the property tax, because of the hilly terrain, is not at all comparable to the property tax income in the plains. In view of the peculiar situation of these local bodies, the SFC recommends that Government may allocate a of 25% from this tax to the areas covered by plantations.

## SUGAR CANE CESS

**2.2.129.** Under the Tamil Nadu Sugar Factories Control Act, 1949, a sugarcane cess is levied from the sugar mill owners. The realisation under this cess is to be utilised for road development, research and development and equity participation in the new sugar mills. The road development is a duty vested with the local bodies within the jurisdiction of which the sugar mill is located. It is understood that the Director of Sugar is holding this fund and spending on the development of road in the concerned area by undertaking the job through that department.

### Recommendation

**2.2.130.** Since the local body is very much concerned with roads within its area, SFC considers it desirable that the money allocated for the purpose in the area should be passed on to the local bodies or IN THE ALTERNATIVE the local body and the Sugar Mill concerned should be made jointly responsible for the upkeep of roads of the local body concerned which lead to the area where the Mill is situated.

### Urban Land Tax:

**2.2.131.** With a view to augment the resources of the state, to carry out slum clearance schemes and housing schemes for low income groups, to rationalise the scheme of taxation of land in urban areas put to non-agricultural use and to secure a return commensurate with the pronounced increase in the land value, the Urban Land Tax Act was enacted and it came into force in the City of Chennai from 1.7.1963. Though this Act was subsequently struck down by the High Court it was later on upheld by the Supreme Court and collections were resumed from 1969. It is stated that the Urban Land Tax is payable in lieu of :-

1. The Ryotwari assessment
2. The assessment levied under the Chennai Inams(Assessment) Act 1956 or under the Andhra Inams (Assessment) Act 1955
3. The ground rent
4. The quit rent
5. Any amount due under Chennai City Land Revenue Act, 1851.
6. Such other amount as the government may by special order specify, payable in respect of such land, but shall be in addition to any tax on such land payable under any other law for the time being in force.

**2.2.132.** This Act has been extended to the Municipal Towns of Coimbatore, Salem, Trichy and Madurai and also subsequently to belt areas lying within 16 KM from the outer limits of Chennai City. This Act was further extended to Tirunelveli and other peripheral areas of Coimbatore, Salem, Tiruchirapalli and Madurai. This Act was further extended to the following 21 special grade and selection grade Municipalities; viz. Erode, Thiruppur,

Thanjavur, Tuticorin, Uthagamandalam, Karur, Nagarkoil, Pollachi, Kumbakonam, Mayiladudhurai, Dindigul, Palani, Kanchipuram, Cuddalore, Vellore, Udumalaipettai, Villupuram, Pudukkottai, Karaikudi, Rajapalayam, Namakkal and to the two townships namely Mettur and Kodaikanal (Now Municipalities). The Tamil Nadu Urban Land Tax Act 1992 rationalised the levy of tax uniformly in these areas. Certain exemptions have also been granted from the levy by the Government. An amount of Rs.7 crores is being collected per year by the Government as will be seen from the budget for 1994-95. As may be seen from the objectives and purposes for which the levy was made and the reason for such levy indicated earlier, the local bodies who are now looking after the maintenance of the slum areas and also the housing colonies of low income groups are eligible for a share in this tax. It may also be seen that this levy is in lieu of ryotwari assessment, ground rent, quit rent and amount due under Chennai City Land Revenue Act. The Urban Local Bodies have not been given any share from the land revenue collected in their areas. Though the District Municipalities Act 1920 has an enabling provision to levy Tax on agricultural lands also, the levy is not being made in view of the instructions from the Government. Taking all these into consideration, the urban local bodies indicated above will be eligible to have a share from this source of income to enable them to carry out the function of maintenance of slum areas and housing colonies of low income groups. This income can be shared with the local bodies in whose areas the tax is levied. The State Finance Commission recommends a 50% share out of this revenue to urban local bodies concerned.

**Terminal Tax on Passengers and Goods carried by rail:**

**2.2.133.** Local Finance Enquiry Committee, 1950 and Taxation Enquiry Commission, 1953-54 and Zakharia Committee, 1963 have recommended that a levy on terminal tax on passengers and goods carried by rail should be enacted. It has to be done by Government of India. Zakharia Committee has further recommended that pending enactment, the railways should make a recurring annual grant to State Government for development of urban areas from where rail earnings mainly arise. This may be pursued by the State Government with the Government of India.

**Surcharge on bus tickets on floating population:**

**2.2.134.** To tax floating population who come to Metropolitan Cities and important Centres of trade and industry from a distance of 150 KM., a surcharge may be collected on busfares from persons travelling from a distance of 150 Kms to these areas and made available to Local Bodies.

**Local Body Cess on passengers travelling by bus:**

**2.2.135.** To ensure provision and proper maintenance of Bus stands/shelters and to provide passenger facilities it is suggested that surcharge on the bus tickets may be collected on behalf of Local Bodies. It is ascertained that the number of passengers travelling through Transport Corporation buses per day is more than in the order of about 150 lakhs through Town Bus, mofussil short distance buses and long distance buses.

A levy of 5 paise on Local Town buses, 25 paise on Moffusil buses and 50 paise on Long distance buses in addition to ticket fare is likely to yield good income. This could be pooled and distributed on need basis to various Local bodies.

## **NON TAX REVENUES**

**2.2.136.** The non tax revenues can be broadly classified into four categories and they are:

1. User charges,
2. Licence, fees and other charges,
3. Income from properties,
4. Income from special services.

They are discussed in detail below:

### **User charges:**

**2.2.137.** Almost in all the forums, it has been stressed that the most unexploited source of revenue of the local bodies is the User charges. The user charges have been mostly subsidised even when there is affordability and without considering need for recovery of cost of service. This has caused resistance while claiming reasonable rates to cover at least a portion of cost recovery. The concept of user charges though talked often in higher level forums, has not become acceptable among the local public. Even the elite people question the wisdom of collection of user charges in view of the Property tax levy which consists some of the components for services. The Tax Component is only to help the local bodies to provide necessary infrastructure service for the entire area for the benefit of the community as a whole. The user charges is for the special service made available to the consumers. Public awareness is mainly needed to understand the distinction of the tax and user charges and the need for the local body to claim such user charges.

User charges can be defined as the charges levied for access to and the use of a given service. It is possible to recover user charges only in cases where the principle of exclusion, namely, excluding those who do not pay, can be applied. In the case of urban local bodies, the scope for levying user charges is very wide. The user charges are normally confined only to water supply.

**2.2.138.** The contribution of water charges is furnished below:

**Table 2.25. Municipal Corporations Income from user charges for Water supply 1993-94**

	In terms of % to Non Tax	In terms of % of Total Income
Coimbatore	56.52	9
Madurai	33.97	6
Salem	58.82	9 - 12
Tiruchi	34.61	6 - 7
Tirunelveli	12.05	12 - 13

**2.2.139.** There are other items of services such as sewerage/drainage/garbage and solid waste collection, and communication facilities like roads. for which also the cost of service has considerably increased User charges will be an additional source of revenue to meet inadequacy in maintenance of these services. An awareness must be created among the local citizens that they should willingly pay and get the service they want in better manner. The user charges will contribute to the improvement of the infrastructure facility already existing. Statutorily the responsibility of providing basic amenities like roads, lighting, sanitary arrangement and water supply has been earmarked to the local bodies from the inception of such bodies, and they were also looking after these facilities in a modest way on a minimal level subject to resource availability. Now, there is considerable change in the concept and growth in the aspirations of people. Policy makers have also interest in achieving certain State/National level standard norms for providing a minimum level of services in lighting, roads, water-supply etc. They are above the level of affordability of the respective local bodies and could be achieved only with the assistance of the Government to meet the resource gap of the Local Bodies. The provision of protected water supply with individual pipe connections costs very heavily in view of the fact that the water has to be taken from long distances by way of a combined water supply scheme etc. Even providing deep borewells and constructing over-head tanks with provision of taps, as public stand pipes, costs very high. Similarly, a minimum level of lighting viz. tube-lights has been aimed at and the norms of spacing of lamps are also adopted to ensure better service. In certain types of local bodies based on the necessity and also request from the public sodium vapour and mercury lamps and high-mast lamps are provided in important areas. The Electricity Board which has followed a policy of providing the equipments and lights at its own cost has changed its policy and is claiming cost for every light to be provided depending on the nature of light. This has also increased the expenditure on lighting. The Government will have to consider subsidising the Electricity charges in the case of Urban Local Bodies.

**2.2.140.** In the case of urban local bodies assistance is given only in the form of loan for creating infrastructures like water supply, roads etc. and other remunerative schemes. They are expected to meet the Debt servicing and maintenance besides

future extensions from their own funds. Unless user charges are collected to ensure cost recovery, it will be impossible to maintain these services and also to meet debt servicing.

**2.2.141.** The ability and willingness to pay of the different consumer groups, has to be assessed before levying user charges as the capacity differs in respect of different consumer groups. The economic pricing to achieve full cost recovery will be difficult in respect of cost and time over-run projects. The marginal cost linked prices are likely to be too high in relation to prevailing price level and it will be difficult to work out economic cost from the local body Accounts. The SFC recommends the following broad principles that can guide the pricing of publicly-provided goods and services.

1. Wherever the exclusion principle applies, charges may be levied for services provided. Charges should be levied on all those who are clearly identified as being the beneficiaries of the service, as in the case of water charges.
2. If beneficiaries can not be clearly identified, user charges are inappropriate. In such a case some specific benefit taxes can be levied on the entire local population. Street lighting is a case in point. The yield from the general benefit taxes such as the drainage tax, water tax etc. can be taken into account while fixing the user charges so that the charges cover the remaining part of the cost to be recovered. However, for the measure to work efficiently, proper earmarking of the benefit tax collections should be done. At present, though earmarking is required according to the existing rules, it is not carried out in practice.
3. The poor may be subsidised directly rather than through reduced prices.
4. Transfers from the State and Centre may be used to finance the services if and only if charges and benefit taxes are not adequate to fully fund the locally required quantities of services. In such a case, the local government will be accountable to the higher levels. Public Sector Activities are unlikely to be efficient unless financial accountability is clearly established.

**2.2.142.** The SFC suggests that affordability for the poor which is the most voiced concern can be overcome by levying the lowest rate for such section of people or if necessary they may be subsidised or exempted directly rather than through reduced prices. The SFC considers that progressive rates of charges for higher consumption blocks and higher commercial rates for commercial and institutional users can be adopted..

**2.2.143.** The service charges instead of being determined at State level, local autonomy in fixing the charges should be given to local bodies with guidelines for such fixation, making the State permission compulsory to decrease the charges.

**2.2.144.** The in-depth study conducted by the State Finance Commission and also the views received from the public, reveal that the local public are not unwilling to pay for the services if the services are provided properly and regularly.

**2.2.145.** The State Finance Commission therefore, recommends that the urban local bodies like Municipal Corporations which have got greater potential for claiming user charges can improve their services. The transparency in the conditions of service in the various localities can help claiming a reasonably higher charges at least 200% more than what is now being collected. The local body should prioritise the services depending upon the local needs and meet the cost involved therein from out of the user charges and also from out of the service tax component of the property tax. Wherever the user charges cannot be identified it should be set off against the service tax such as sanitation and sewerage/drainage. As far as possible, the local body should aim for full cost recovery of these services in corporation area by cross subsidy against affordable community.

**2.2.146.** In the case of industrial undertakings and industries special charges may be collected for providing adequate service for clearance of sewerage / drainage. For clearance of septic tanks and cess pools special charges can be levied and the local public may be advised to have cess pools rather than leave the sewage water in roads. In the case of lighting, the Government should come forward to meet the current consumption charges in full in the case of Rural Bodies and weaker Town Panchayats and subsidise the Current Consumption charges in Urban Local Bodies.

**2.2.147. Recommendations**

The SFC recommends the following:

1. After a careful situation- analysis it is considered that urban local bodies like Municipal Corporations and Municipalities of special and selection grade have scope for charging higher user charges under water supply at least 200 % more than what is collected at present.
2. SFC recommends the following steps to streamline the principles for user charges and to ensure higher level of income and service.
  - i. The local body should prioritise the services depending upon local needs and meet the cost involved from out of user charges and from out of service tax.
  - ii. Wherever the user charges cannot be identified it should be set off against the service tax such as sanitation and sewerage/drainage.



- iii. The Local Body should aim for full cost recovery of these services in the Corporations and Municipalities of special and selection grade area by cross subsidy against affordable community and by higher commercial and institutional rates.
- iv. The community who cannot afford higher rates may be subsidised or totally exempted.
- v. In the case of industrial undertakings and industries special charges may be collected for providing adequate service for clearance of sewerage/drainage/garbage not attended to by them.
- vi. For clearance of septic tanks and cess pools, special charges can be levied and the local public may be advised to have cess pools rather than leave the sewage water in roads.
- vii. Similar charges may be considered for other cases like Hotels, Lodges, Hospitals, Nursing Homes and Kalyana Mandapams and other public places for clearance.

**2.2.148.** Privatisation can also be aimed at by involving the local public or Non Governmental Organisations like Exnora International who are coming forward to take up even partial operations involved. The local bodies can be encouraged to explore the system of contract for clearance of garbage and for solid waste management by private agencies who are interested in taking up that work on a commercial basis. This has been dealt with in greater detail in Part.III.

**2.2.149.** The SFC suggests that in the case of user charges, a Tariff and Valuation Cell may be set up at the State/Regional level which can give all technical expertise and help the local bodies in identifying the right pricing policy for their services. Transparency in the operation of the local bodies is expected to go a long way in creating public awareness, community participation, and necessary good will among the local public. This will lead to a better management of these services in the local area.

**2.2.150.** SFC also suggests that in the case of all Municipal Corporations, special and Ist grade Municipalities, a cost cell may be necessary as part of the administration for the preparation of balance sheets of the institution and providing reliable data base for efficiently pricing the services as per principles discussed earlier, and liaisioning with tariff and valuation cell at the state level wherever necessary in respect of pricing policies and also to prepare the assets and liabilities statement at the end of every year.

**2.2.151.** In view of the suggestion to have a tariff and valuation cell at the state level with Regional level branches, there does not appear any need for creation of a seperate cost cell at the local body level since the existing accounting mechnery itself can act as cost cell and have liaison with the tariff and valuation cell at the state/Regional level and arrive at proper conclusions.

**2.2.152.** The preparation of balance sheet and the assets and liabilities statement should be made as a part of the duty of the accounting side at the end of each year and also in respect of each service, if possible. This needs a change in system of budgeting and accounting by switching over to commercial type of accounting from the existing type of government accounting and also go in for computerising the accounts.

### **Recommendations**

#### **SFC recommends the following:**

- 2.2.153.**
- 1.** Privatisation can be aimed at by involving the local public or by promoting or encouraging NGOs like Exnora International. Local Bodies can be encouraged to explore the system of contract for clearance of garbage and for solid waste management by private agencies. The experience of Coimbatore Corporation may be considered in this context.
  - 2.** The Tariff and Valuation cell proposed at the State level with regional level branches for Property Tax administration may be entrusted with the following role in respect of user charges:
    - i** To prepare a pricing guidelines manual for circulation among all the local bodies.
    - ii** To assist the local bodies in arriving at the right price/tax structure for their services in order to make them economically viable.
    - iii** For already existing services, to work out economic charges and to review the pricing policy. If the hike in the charges is very high, then the hike can be imposed gradually over two to three years.
    - iv** In the case of new schemes to workout the charges to cover O & M costs, debt service, and depreciation.
  - 3.** In the case of projects financed with loans, capital cost recovery should not normally be spread over periods exceeding 15 years. If, however, the annuity payable is found not affordable, it can be spread further up to 20 years.
  - 4.** Formation of Costing Cell in Local Bodies:

SFC considers that it must be made the duty of the Accounting side of Local Body to prepare Balance Sheet and statement of assets and liabilities at the end of each year and in respect of each service.

- ii It should act as costing cell within the local body following the guidelines of Valuation and Tariff Cell at State level.
- iii. There is need for change in the system of budgeting and accounting to commercial type instead of the present Governmental system of accounting and also for computerisation of Accounts to achieve the objectives.

**Licence, fees and other charges:**

**2.2.154.** The D & O Trade Licence fees constitute a major revenue source now contributing 5 to 6 % of Non Tax Revenue. The main draw back in this source is the lack of periodic revisions. Many local bodies have been adopting the rates fixed even three decades earlier. The rates now levied are nowhere near the present condition. No doubt the licence fee can be levied only to meet the cost involved in rendering these services. The cost of administration has very much gone up and the rates levied are on the very low side. Further the present procedure followed in issue of trade licences is found to be very cumbersome and it needs a thorough re-examination and simplification and responsibility of taking licence should be made compulsory on traders and deterrent penalty for default is needed to avoid evasion. It is also found difficult for local bodies to prepare a full list every year.

**2.2.155.** Immediate tax mapping based on sources may be done and a computerised list can be prepared. Changes can be recorded once in a year. The change in ownership of the trade also has to be compulsorily registered with local body as in the case of transfer of ownership in property tax. Issue of licences can also be decentralised at divisional or zonal levels of the Local Body instead of concentration at headquarters. Computerisation will enable quicker issue of certificates and time limit for application, enquiries and issue may be streamlined to suit present conditions.

**2.2.156.** Further there are many types of trades which have newly come to exist and they need inclusion in the list for purpose of licencing and control, while those which are found obsolete should be deleted from the list. An attempt has been made by the Damodaran Committee on Panchayat Finance in the year 1990 to rationalise the system and also the rates, prescribing a minimum and maximum for the various types of trades. Subsequent to that also, there might be a few new trades which have come up recently and they will have to be added in the list. The rates adopted by the Damodaran Committee were based on the rates which had been adopted by the Madurai Corporation at that time which were then found reasonable for adoption in respect of all local bodies.

**2.2.157.** While applying these rates, the rates for Municipal Corporations could be suitably enhanced. Based on the rates recommended by The Task Force and also the rates recommended by Damodaran Committee (1990), the revised rates are proposed in the Appendix No.12 & 17 for both Urban and Rural Local Bodies. If more than one trade is conducted in one premises, the higher rate that is applicable should be charged. A

minimum levy to be compulsorily collected has also been prescribed. The mapping of all the trades in the area should be done immediately and computerised and only additions and deletions should be carried out in future years. The procedure now in vogue for enforcing this trade licence is to get applications in the month of February for issue of licence / renewals for the period commencing from the first of April of the next financial year. If the licence is not renewed before the end of June, the local body has to initiate penal action for prosecuting the defaulters. In most of the cases, it is found that voluntary renewal or application for trade licence does not happen and only after inspection and detection, licences are being applied for. It has been brought to notice that the omissions are many in number. It is necessary to prescribe sufficiently higher penalty, equivalent to three or four times of the normal licence fee, when the omission is found out so that it will ensure the filing of applications at the appropriate time for obtaining licence/renewal. The local Body should also have power to recover through distrains against immoveable properties in the case of defaulters.

**2.2.158.** At the time of registration of dealers under the Sales-Tax Act, the authorities may be required to insist on production of the licence obtained from the local body and to quote Local Body Licence number in their application for licence. This will enable the licensing of all trades without omission.

**2.2.159.** The licence fees can be suitably updated once in three years based on inflationary rates. The local body may also issue a licence for a period up to 3 years on collection of the licence fees in advance with a rebate of 10%.

**2.2.160.** In the case of installation of machinery licence fee is now being collected with reference to the Horse Power of Motors. No licence fee is collected in respect of the subsidiary machinery installed and run with the aid of the prime Motor. For instance, in the case of power-looms, four to six power-looms can be ordinarily run with the help of one 5 HP Motor and the licence fee is collected only on the basis of the HP of the prime motor and not on the basis of the number of power-looms that are run. Similarly, in the case of a Printing Press also, one 3 HP Motor can run two or three litho or off-set presses. Hence the installation fees for machines may be fixed not only on the basis of the HP of the motor but also taking into consideration the minimum machinery that could be installed and run with the aid of the prime Motor, for which licence fee is levied. Similarly, changes in the Motors with higher capacities are not being intimated and though there are rules for penalty for violations, it is difficult to find out the changes and to locate the period of such changes. It should therefore be provided that the owner should be compelled to take permission while changing the motor with higher capacity and the penalty for failure to do so should be not less than three to four times the ordinary licence fee that could be levied. Deterrent action may also be provided for by prosecution of the offender.

## 2.2.161. Recommendations

**SFC, after situation analysis, recommends the following:**

1. D & O Trade. The local bodies will have to undertake tax mapping to prepare a computerised list based on immediate survey and the additions and deletions can be made once in a year. Computerisation will enable quicker issue of licences.
2. The time limit for application, enquiries and issue may be streamlined to suit the current situation and published through a common pamphlet in all local bodies and also published in common places.
3. The Revised Rates for the various trades, taking into consideration, the recommendations of the Damodaran Committee (1990) are proposed by the SFC for urban/rural bodies separately as Schedules in Appendix Nos. 12 & 17. Any industry or trade not covered in the list may be brought under 'Others' provided for in the schedule.
4. If more than one trade is conducted in one premises, the higher rate will be collected. Minimum levy has been prescribed for collection compulsorily.
5. The penalty for default may be three or four times the normal licence fee. A Grace time for renewal with penalty may be given for a period of 3 months from April to June Prosecution may be launched in July of every year. The local body should have power to recover through distraint. on immoveable properties in the case of defaulters in addition to prosecution powers.
6. At the time of registration of traders under the ST Act, the authorities concerned may be required to insist production of the licence issued by the local body and even insist on quoting the number of licence in the form of application itself.
7. The licence fee prescribed should be suitably updated once in three years based on inflationary rates, and on Consumer Price Index.
8. The local body may also issue a licence for a period of 3 years on collection of licence fee in advance for those willing with a rebate of 10%.
9. In the case of installation of machinery, in addition to the collection of licence fee on the basis of Horse Power of Motors, fee should be collected in respect of additional or subsidiary machinery run with the aid of the prime motor.

10. Changes in Motors with higher capacities are liable to be informed failing which heavy penalty equivalent to 3 or 4 times the normal fee should be levied and deterrent action by Prosecution should also be done. The owner should be compelled to take permission while changing the motor with higher capacity.

**Income from properties:**

**2.2.162.** The Municipal Corporations own properties like markets, bus stands, shopping complexes, guest houses and the return by way of rent collected from these properties is not commensurate with the prevailing market rent in the same locality for similar building collected by private property owners. In certain cases location of such assets contributes to "no demand" which lead to assets lying unused. This is an important source of revenue for the local body provided they are managed properly, especially in Municipal Corporations, where space is scarce for business community. The Municipal Corporations now earn 62% of income from Non Tax only under this source. The Corporations mostly construct these buildings on loan assistance from various funding authorities and they have to pay annuities from out of the earnings, besides meeting the cost of maintenance including the cost of staff concerned. The private entrepreneurs in the same locality adopt the procedure of selecting the tenants even before or at the initial stage of the construction and obtain huge amounts as advances, thereby reducing their financial liabilities. They also fix the rent based on the market rates and also raise the rent from time to time depending upon the local market conditions.

**2.2.163.** Though it may be difficult to adopt the principle and procedure adopted by private people in toto by the local bodies, a re-thinking should necessarily be made on the method of creating assets with a view to realising reasonable return at least to balance the project, if not to be more remunerative. There is good demand for the private buildings. There will be equal demand for the properties of the local bodies if they are situated in proper locations. In fact these ventures are thought of only to further the income of local body and hence fixing rent on P.W. rates which do not take care of remunerative aspects as well as refund of annuities besides proper maintenance should be dispensed with.

**2.2.164.** The local bodies also could resort to commercial line and think of switching over to a system of advertising the proposed project calling for applications from the intending allottees even at the initial stage. The allottees could be selected in advance and the rent fixed in accordance with the prevailing market rate. The local bodies should also be allowed to take reasonable advances from the intending allottees and this will substantially reduce the financial burden in the creation of assets. The local bodies should also have the freedom to create the assets by deploying their own departmental officials or local contractors and should not be compelled to give such projects only to the Government machinery like P.W.D. or other departmental agencies, which consume more time and also charge heavy centage charges resulting in high escalation in cost.

**2.2.165.** The completion of the project in time will avoid cost escalation and ensure early allotment of the property to the allottees in accordance with the agreements drawn up beforehand. In addition, the allottees should, even at the beginning, be made aware of the condition that there will be progressive increase of rent or lease amount every year at an agreed percentage and that they can continue to be in occupation provided there was no default in payment of rent or lease amount or no violation of terms of lease.

**2.2.166.** In case of default, the defaulter should be compelled to vacate and the allotment made to a new bidder through auction-cum-tender and the advance paid, if any, shall be forfeited or returned to the defaulter after adjusting the arrears if any due with cost of reauction and a penal fees for default. This method will ensure transparency in the transaction and also instil confidence in the minds of the bidders who seek allotment as in the case of private properties.

**2.2.167.** The change-over to the new method will definitely help the local bodies realising higher income and better management of the assets of the local bodies. This also will help avoiding intermediaries colluding to depress the lease amount and have a second lease with higher profit.

**2.2.168.** The Corporations can also adopt the method of Build, Operate and Transfer (BOT) in respect of the assets sought to be created. The privatisation of the maintenance of these commercial assets could also be tried with a view to devolve maintenance on contractors and at the same time to provide for a net return.

#### **2.2.169. Recommendation**

**The SFC recommends the following for improvement of income from properties:**

- 1.** The local bodies could resort to commercial line and think of switching over to a system of advertising the proposed project calling for applications from the intending allottees even at the initial stage. The allottees could be selected in advance and the rent fixed in accordance with the prevailing market rate.
- 2.** The local bodies may take advances from intending allottees and this will reduce the financial burden substantially in the creation of assets.
- 3.** The local bodies may create the assets by deploying their own departmental officials or local contractors. They should not be compelled to give such projects to monopolised Government machinery.

4. The allottees should be made aware of the condition that there will be progressive increase of rent or lease amount every year at an agreed percentage and that they can continue to be in occupation provided there is no default in payment of rent or lease amount or no violation of terms of lease.
5. In case of default, the defaulter should be compelled to vacate and the allotment made to a new bidder through auction-cum-tender and the advance paid be forfeited or returned to the defaulter after adjusting the arrears of rent to be paid with cost of re-auction with a penal fee for default.
6. The local body can also adopt the method of Build, Operate and Transfer (BOT) in respect of assets to be created.
7. The privatisation of the maintenance of these commercial assets on contract system can also be tried with a view to achieve economy in maintenance and to avoid deployment of special staff and to provide for a net return.
8. In all these types of transactions the Government may prescribe suitable built-in checks to ensure accountability.

#### **Income from Special Services:**

**2.2.170.** The special services like private connections for water supply have been dealt with under user charges. The other main item under this category will be in relation to Town Planning where there is a high potential for collection of development charges. In the case of new Lay Outs coming up or in under-developed localities, there is much scope for defraying the cost of providing basic amenities like roads, lights and drainage through betterment/development charges. This can be tried in Corporations, especially in industrial areas and also in upper middle class and rich neighbourhoods. The charges can be fixed in accordance with the norms fixed by the Chennai Metropolitan Development Authority depending upon the width of the road and the frontage of the property and if the charges are considered to be high, it may be collected in easy instalments. The money collected should not be diverted for other purposes but should form a separate development fund.

**2.2.171.** Another income through this source is building licence fees. The local bodies are collecting licence fees for construction/alteration of buildings within their area which has to be approved through plans prepared by the authorised authorities and presented to the local bodies. The charges are based on the rates prescribed by the Director of Town and Country Planning or by the Chennai Metropolitan Development Authority. This is done more for the regulation of the construction of buildings according to the planning system initiated by the planning authorities like CMDA and DTCP. The licence fees is appropriated by the local body concerned.



**2.2.172.** In the case of unapproved Lay Outs where the buildings are constructed without the approval of the lay out by the planning authorities and without presenting proper plan applications to the local bodies, according to the existing rules, property tax can be levied on the buildings so constructed. The local body will resort to the levy of property tax on such buildings. Once the property tax is collected the owners of the building expect all facilities to be provided by the local body concerned in their respective areas. However, the formation of roads and provision of lights are essential items to be provided by the Lay Out promoters according to the conditions of the Planning authorities.

**2.2.173.** In the case of unapproved lay outs, the local bodies find it difficult to provide these basic amenities in the absence of approval of the lay out, and the promoters escape after sale of the plots to individuals. At present they have powers to prosecute the persons who have constructed the buildings without proper plan approval and once the Court levies a penalty which is paid by the owner of the building, the local body has to satisfy itself by providing the civic amenities, even though the area continues to be an unapproved lay out. In the case of Chennai and other Corporations there are powers for demolition of buildings constructed without approval but such powers are not available to the other local bodies. Further the demolition process is also a difficult one and can not be normally resorted to due to various pressures and pulls. At the same time, the local body loses the money which could otherwise be collected as development charges in those areas.

**2.2.174.** The State Finance Commission would like to point out that the Planning authorities should look into this aspect and prescribe necessary and suitable safeguards for the avoidance of such unapproved lay outs, and also for regularisation with deterrent additional levies as penalties.

**2.2.175.** Even in the case of approved layouts, where the promoter is to provide the roads and lights and hand over the public places to Local bodies, the standard of road is often found bad and only the Local Bodies have to relay and develop the roads. It may also be considered whether the cost of laying roads as per standard norms of planning authorities can be required to be deposited by promoters with the local body at the time of approval of the layouts so that Local Body itself can take up the laying of roads to the standards prescribed.

**2.2.176.** The local bodies have often indicated that the planning authority like CMDA is collecting development charges through the local bodies while issuing planning permits but these amounts are not made available to the respective local bodies for the purpose of providing the basic amenities in the new developing areas. The CMDA has pointed out that these charges are collected for the use of the CMDA for maintaining the organisation, and also to help the local bodies in providing facilities like bus stands, markets and other common facilities needed in the area; and they would call for projects from the various local bodies and sanction them according to the availability of funds. They also admit that the money collected in a particular area is not earmarked for that area but the total amount collected is being utilised for the benefit of the local bodies who

come up with proposals for projects. The State Finance Commission considers that the responsibility of the local body to provide the initial basic amenities in the newly developed areas is very heavy and hence at least a portion of the development charges collected by the CMDA should be set apart for the concerned local body to meet at least a portion of its liability in creating infrastructure for developing these areas. The Planning authority should, however, make available their technical advice in all these projects to be taken up by the local bodies

**2.2.177.** It is also found that development charges are not collected by the DTCP in the cases covered by the DTCP while sanctioning plan permits. Local bodies may be empowered to collect development charges in the case of the newly formed lay outs at the time of sanction of the lay out, after permission is granted by the DTCP. The local bodies could utilise that amount for developing the particular area by earmarking the funds for that purpose. The DTCP may, however, prescribe the charges that may be collected by the local bodies as development charges for the purpose of ensuring uniformity, which should be commensurate with the cost of providing the facilities.

**2.2.178.** Wherever people of a particular locality need extension of certain services to their area from the available services like water supply, lighting, etc., it is found that they are also prepared to contribute a portion of the cost involved to local bodies. The local bodies may be permitted to collect contributions from the public who are willing. If willing, free labour offered also can be accepted.

**2.2.179. Recommendations**

The SFC recommends the following:

1. Under Town Planning, there is a high potential for collection of development charges.
2. In the case of new lay outs, the cost of providing basic amenities like roads, lights and drainage can be met through development/betterment charges.
3. This can be tried in Corporations, in industrial areas and in upper middle class and rich neighbourhoods.
4. The charges can be fixed in accordance with the norms of the CMDA depending upon the width of the road and the frontage of the property.
5. If charges are considered high, it may be collected in instalments. The money collected should not be diverted for other purposes but should form a separate Development Fund.
6. Necessary and suitable safeguards may be provided for avoidance of unapproved lay outs in future with deterrent additional levy as penalties.

7. Even when the promoter hands over the lay out as per present regulations after laying roads etc., the standard of road is stated to be very bad and the Local Bodies are compelled to relay them. The cost of laying roads as per standard norms may be required to be deposited by the promoters at the time of approval of layouts, so that Local Body itself can take up the work of laying of roads.
8. SFC considers that the responsibility of Local Body to provide initial basic amenities in the newly developed areas is very heavy and therefore at least a portion of the development charges collected by CMDA should be set apart to the concerned Local Body to meet the cost of provision of basic infrastructure for new developing areas. The Planning authorities should make available their technical advice in the projects to be taken up by the Local Bodies.
9. Wherever people of a particular locality want extension of certain services and are also willing to contribute a portion of the cost, the local bodies may be permitted to collect such contributions from the public. This is likely to create local participation coupled with increased sense of liability on local public against misuse of the assets.

#### LAND USE:

**2.2.180.** The urban local bodies like Corporations and Municipalities have vacant lands belonging to them in their areas. It has been indicated during the conferences and also in the District Sittings that the porambokes as well as vacant lands in the local body area have been subjected to encroachment and this has affected the usage of the land by the local body for its betterment.

**2.2.181.** A survey of the local body may be arranged both in urban and rural areas and all the porambokes and vacant lands belonging to the local bodies may be identified and a list of such assets may be got prepared by each local body. The vacant lands can be put to proper use by opening shopping complexes, markets, bus stands or even slaughter houses wherever necessary.

**2.2.182.** In the case of layouts, open spaces are indicated for public purposes like schools, shops, Parks etc. Excepting the space indicated for parks, other places are not handed over to Local Body. It is understood that if such spaces allocated are not utilised for the purpose within a year the promoter could convert it as housing site and sell. In most cases, the allocation of spaces is not even known due to the fact that construction and development of the area take place in a phased manner. The places allocated are mostly got converted. To avoid this, the open spaces indicated for shops and schools should not be converted but should be left with local body for allocation for the specific purpose. This will enable the local body to have adequate space for its activities. This will bring income to the local body.

**2.2.183.** Removal of encroachment is a point on which the representatives of the local bodies have stressed very much during the sittings of the Commission in the Districts. It is stated that for removal of the encroachments, the help of the revenue authorities has to be sought and the local body has no power to evict the encroachers. It is felt that any encroachment within the area of a local body may be permitted to be removed by the local body itself and in the case of lands not entrusted to the local body, the revenue authorities may coordinate and help the local body to remove the encroachments. The road margins on highways which are normally encroached by private users for providing shops etc. should be cleared and the local body concerned should be given powers to use the road margins by having their own shops or by issuing licence to private people for a short term with powers to resume the space at any time when the road margins are required by the Highways Department. This will ensure proper regulation of the area and also augmentation of the income of the local body.

#### **2.2.184. Recommendations**

**The SFC recommends the following:**

- 1.** Both in urban and rural Local Bodies, a survey should be made to list out all the porambokes and vacant lands and a list of such assets should be prepared.
- 2.** Vacant lands should be put to proper use by opening shopping complexes, markets, bus stands, slaughter houses etc.
- 3.** In the new lay outs, open spaces are indicated for schools shops parks etc. Excepting the space indicated for parks, other places are not handed over to local body. If such open spaces are not utilised for the purpose for which they are reserved within a year, the promoter is permitted to sell it as house sites. All the open spaces reserved should be handed over to the local bodies to avoid conversion by collusion and evasive tactics. The local bodies will then have adequate space for earmarked activities.
- 4.** Any encroachment within the local body area should be permitted to be removed by the local body itself.
- 5.** In the case of lands not entrusted to local body, the revenue authorities may coordinate and help the local bodies to remove the encroachments.
- 6.** The road margins on Highways should be cleared of all encroachments and the local bodies should have power to use the road margins to have their own shops or to issue licences to private people for short term leases, with powers to resume as and when required by Highways Department. This will ensure proper regulation of road margins and also augmentation of income for the local body.

## LICENSING OF EXISTING MARKET SHOPPING COMPLEXES AND BUS STANDS.

**2.2.185.** According to the existing procedure, they are leased out in auction and the highest bidder is being allowed to occupy. He is also allowed to continue by paying a nominal increase in the lease amount, even after the lapse of the period. After the lease period of three years, the rules provide for a fresh auction but due to administrative instructions, fresh auction is not resorted to and the existing lessees are allowed to continue with some marginal increases in the lease amount. This procedure affects not only the right of the local body to conduct fresh auction according to the rules but also makes the income more unviable. No doubt it is true that the lessees who have occupied the shops etc., might have gained some amount of goodwill and it would be difficult for them to shift the place of business, after they had established the business at the particular place. But, on this account, the conduct of fresh auction should not be avoided but it should be conducted according to the rules. The present lessee may also be permitted to participate in the auction. During the finalisation of the lease for a fresh term, the existing lessee may be given option to pay the higher bid and his continuance may be considered favourably. One of the conditions for the continuance of the lease must be that he should not have defaulted in payment of the lease amount during the earlier tenure of lease and not violated the terms of lease.

**2.2.186.** It was also reported that the existing lessees are often becoming defaulters and the existing procedure for collection is cumbersome and the local body is forced to resort to filing of civil suits for collection of arrears, which naturally involve long delay in court proceedings. Even during the pendency of such proceedings, the local body is not in a position to vacate the defaulting lessee, because of administrative directions issued from time to time.

**2.2.187.** In the matter of lease or continuation of lease, or in the collection of arrears from the lessees, no outside interference should be allowed.

**2.2.188.** The procedure of Tender-cum-Auction may be adopted and the period of lease may be fixed as three years, with a gradual increase in lease amount or rent once in a year at a percentage to be determined even at the beginning of the lease. At the end of the three year period, of lease, a fresh auction should necessarily be conducted with an upset price suitable to the then market rates.

**2.2.189.** For the collection of lease amount and arrears, the local bodies should be vested with the powers of distraint not only in respect of moveables but also in respect of the immoveable properties of the lessee.

**2.2.190.** The procedure of tender-cum-auction will eliminate the chance for depression of bid amount during auction, by formation of a cartel among the bidders, and the likelihood of sub-leasing or sub-letting of the property at a higher rate. The auction and lease should be liable for cancellation by the local body at any time if it is proved or brought to the notice of the local body that there is sub-leasing or sub-letting of the property.

**2.2.191. Recommendations:**

**The SFC recommends the following:-**

1. In the matter of lease or extension of lease, there should be no outside interference.
2. Tender - cum-auction may be adopted and period of lease may be three years with gradual increase in lease amount or rent once in a year at a pre-determined percentage.
3. At the end of three years, fresh auction with an upset price according to prevailing market rates may be conducted. The existing lessee may also bid and be given preference to continue at higher rates quoted. The defaulters in rent/lease amount should be ineligible for the bidding.
4. For collection of lease amount and arrears, the Local Bodies should have the powers of distraint against moveables as well as the immoveable properties.
5. Tender cum auction will eliminate cartels and depression of lease amount in the auction and sub leasing or sub letting. (6) Auction should be liable for cancellation by the local body if it is proved that there is subletting of the property.

**FIXING OF FEES IN THE MARKET BUS STANDS ETC.,**

**2.2.192.** It has been stated that the present provisions enabling the fixation of fees to be collected in markets, bus stands, parking spaces etc. need a re-thinking. It has been stressed that the fee should be reasonably comparable to the rates prevailing in the near vicinity so that the low rate of fee can be avoided. In the case of bus stands, fees are collected from each bus passing through the bus stand directly from the conductor of the bus concerned. Mostly the bus operators are Transport Corporations and only a very few buses are run by the private bus operators in the State. Instead of each local body appointing a person exclusively for the purpose of collecting the fees from each bus passing through the bus stand, it may be considered whether the Transport Corporation itself can be made to pay a lumpsum amount to each local body where the bus stand is situate at a rate to be agreed upon between the local bodies and the Transport Corporations depending on the trips. This will avoid the necessity for each local body to appoint a person for the collection at each bus stand and also avoid leakage of revenue to unconcerned persons. Similarly the private bus operators in the area may also be asked to pay a lumpsum amount to the local body of the area as in the case of transport corporations.

**2.2.193.** In big urban areas dormitories or lodges may be constructed by the local body in or near the bus stand itself to enable the travellers to stay overnight in case of necessities and this will fetch a sizable income to the local body concerned.

#### **2.2.194. Recommendations**

**The SFC recommends the following:**

- 1.** For collection of bus stand fees from buses, the Transport Corporations may be made to pay a lumpsum to the local body at a rate to be agreed upon depending upon the trips which will avoid the necessity of each local body employing a person to collect the amount. and also avoid leakage. The private bus operators also can be asked to pay a lump sum amount to the local bodies concerned. The amount may be collected in two instalments in advance.
- 2.** In big urban areas, dormitories or lodges may be constructed by the local body in or near the bus stand to enable the travellers to stay overnight and this will fetch a sizable income to the local body concerned.

#### **PRIVATE MARKETS:**

**2.2.195.** There are many private markets in the local body areas. In these cases the local bodies have been permitted to issue licence to such private markets on certain conditions for the operation of the market. Each market generates a sizable amount of income but the local body not only loses its right to open a market in the area because of the existence of the private market but also loses sizeable income. It is often represented that private markets should be acquired by the local body for its maintenance by suitable enactment. The Municipal Finance Enquiry Committee, 1980 has also recommended that all these private markets can be acquired and made as public markets and to that extent the Municipal Act may be suitably amended. Due to legal difficulties this recommendation has not yet been followed up. However, in view of the need for regulating the markets, even if a share of the income from the market cannot be obtained, specific service charges may be permitted to be levied for garbage clearance etc. in cases where such special services are to be provided by the local body to the private markets.

**2.2.196.** The SFC recommends that in view of the need for regulating the markets, even if share of income from private markets could not be got, specific service charges may be collected for special services like environmental sanitation by way of garbage clearance, sewerage, water supply etc. by the Local Body from the private markets.

**2.2.197. PARKING FEES:** In the case of urban areas where a number of motor vehicles like cars, lorries and two wheelers and also cycles are moving, there is a great

need for providing parking spaces. Such parking spaces may also be located near the railway stations, bus stands and markets. Now the railway authorities are leasing the rights for providing stands for cycles and other vehicles to private individuals. The local body can take up such parking spaces and run and thereby earn a sizeable income. This type of stands are now being operated by many private persons who make huge money out of it. This will not only help in the regulation of traffic but also enable the local body to earn income from this source.

#### **RECOMMENDATION:**

**2.2.198.** Local Body can take up the parking spaces in their areas and run them and earn sizeable income by maintaining cycle stands near the bus stand, railway station and other important places.

#### **2.2.199. INCOME FROM MARKETING COMMITTEES**

**The SFC recommends the following:**

Marketing Committees collect fees and retain them for maintaining their infrastructure. The maintenance of infrastructure of Local Body like roads, environmental sanitation around the market committees is with the Local Bodies. Hence SFC recommends that the fees may be increased and 50 % of the collections may be transferred to the concerned Local Body to compensate for the cost of maintenance of roads and other necessary infrastructure in and around the marketing committees. This may need necessary amendment of the relevant legislations.

#### **GRANTS**

**2.2.200.** The grant-in-aid to Municipal Corporations on revenue account is very meagre covering only 5 % of the total revenue receipts of the Municipal Corporations in 1991-92, 2.6% in 1992-93 and 3.21 % in 1993-94. In terms of per capita, the grant-in-aid works out to Rs.14,21 in 1991-92, Rs.10.53 in 1992-93 and Rs. 10.85 in 1993-94.

**2.2.201.** The general purpose grants are limited to a few Corporations in select years and the specific purpose grants constitute about 90 % of the total grants in all these three years viz., 1991-92 to 1993-94. Medical grants account for a higher percentage against the specific purpose grants given to the Corporations. The levels of grants vary among the Corporations. In 1991-92 Chennai Corporation has received 64% of the total grants and in 1992-93 and 1993-94 the percentage has exceeded more than 80 %. The variations imply that there are larger imbalances in sharing the grants. Correlation of co-efficient between per capita grant and per capita total revenue receipts has been indicated as 0.12, 0.77 and 0.81 (0.52 average for the three years). This also strengthens the case that the grant distribution policy is often ad hoc in nature. A regular grant made available to all the Corporations and other Local bodies is for Noon Meal Centres since the Centres are run with the government grants provided for the purpose.



**2.2.202.** In the case of Corporations, in view of the potential available for raising of resources, the grant-in-aid should be limited to the extent of dire necessity in respect of specific purposes. In principle the urban bodies have so far been made to raise resources for maintenance and the assistance from the Government was restricted to Capital Formation and that too mostly by way of loans.

**2.2.203.** However principles of distribution of funds from the State to the local bodies are being considered by SFC separately, by which, a reasonable share of Government funds will be made available to the Municipal Corporations, and other urban local bodies also though there was no such steady and regular devolution earlier. The need for further grant-in-aid can be studied after experimenting the system of distribution aiming equitable distribution. If there is still need to compensate any short-fall to any of the Corporations, equalisation grant will be necessary. However till the principle of devolution is accepted, the existing grants should be continued. The specific purpose and incentive and statutory grants will have to continue since they have been sanctioned based on certain criteria like reaching the level of services, mobilising more resources or guaranteed by the statute for specific purpose. This has been taken care of while the principle for distribution of general pool is recommended in Part V.

**2.2.204.** The services like maternity, dispensary, family welfare are based on National goals. They are now indicated in schedule 11 of 74th Amendment for entrustment to local bodies, though they are already dealt with by them. The intention of including these items as entrusted functions will imply the devolution of funds earmarked for the purpose by Central Government and State Government. Hence these activities should be supported with Government assistance by way of grant irrespective of normal devolutions for core civic services aimed at by SFC since these items have not been included in the core services.

**2.2.205.** There have been frequent representations that the local bodies are not able to contain the level of staff expenditure due to the policy of the Government in sanctioning increased Dearness Allowance based on cost of living index every half year on par with the Central Government employees. The rates paid to the Government servants are applied to the servants of the local bodies also but the local bodies do not have any elastic source of revenue to raise additional resources to bridge the gap arising out of such escalation in cost of establishment every year. In addition the local bodies have to bear the liability of pension for their employees on par with the Government servants. Except in the case of Chennai and Coimbatore Corporations, in all other Corporations and other local bodies there is difficulty in meeting the pensionary liability and in certain cases even the provident fund collections of the employees are frittered away due to deficit financing. When the pay of the local bodies staff was revised with reference to the second pay commission, it was agreed that the Government will subsidise the dearness allowance enhancement from time to time. Though this was adhered to in the early stages, the entire system of D.A. subsidy has not been implemented by the Government for a long time. It has been the request of the local bodies that the Government should compensate the local bodies for the cost involved in paying the increased D.A. outside the General devolution.

**2.2.206.** In this context in States like Maharashtra, Andhra Pradesh and Karnataka, a general purpose grant is being sanctioned to the local bodies to meet a portion of their cost of establishment. There is every justification for sanctioning subsidy for the D.A. increase. Perhaps the percentage may vary between the different tiers of local bodies. The State Finance Commission recommends the reimbursement of D.A. increases to these local bodies.

**2.2.207. Recommendations:**

**The SFC recommends the following:**

1. The Specific purpose grants like Maternity, Dispensary, Family Welfare etc. will be covered by devolutions under 73rd and 74th Amendments to the Constitution and the funds allocated for the purpose by the Central and State Governments should be passed on to Local Bodies on the basis of the prescribed norms.
2. Incentive and untied grants now available will be taken care of while devolutions are distributed since such grants are necessary to ensure additional resource generation (Like House Tax Matching Grant and LCS Matching Grant to Rural Local Bodies)
3. Principles of distribution of funds from State to local bodies are being considered separately. After experimenting the system of distribution, the need for further grants in aid can be studied. If there is still need, Equalisation grants will be necessary. This has been recommended in the Part V "Resource Allocation Mechanism".
4. The reimbursement of D.A.increases may be sanctioned to the local bodies outside the general devolution. There is every justification in the claim, even though the percentage of requirement may vary among the local bodies.

**2.2.208. Penalties and fines:**

Penalties and fines to be levied for violations furnished in the schedules to enactments relating to each Corporation may be suitably amended with reference to rates proposed under the Tamil Nadu District Municipalities Act, 1920 in Appendix Nos.13 and 14

**2.2.209. Transfer to Capital Account :**

It was forcefully represented on behalf of the various Local Bodies that even if there was scope for improving the income through remunerative and entrepreneurial schemes, the Local Bodies did not have the required capital to invest. Taking this fact into consideration SFC recommends the creation of a Capital Account in each of the

Local Body as detailed below:

A Capital account may be created by transfer of contributions as under.

Corporations, S.G.& Spl. Grade Municipalities	15% of Total Revenue every year
Other Municipalities and S.G.& Spl. Grade TPs.	10% of Total Revenue every year

From out of the above Capital Fund, the Local Bodies can meet their future capital expenditure for taking up remunerative and entrepreneurial investments.