

## *Property Taxation in Senegal: Legislation and Practice*

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Senegal acceded to independence from France on August 20, 1960. The decentralization process began in 1972 when the country introduced local councils with devolution of expenditure responsibilities such as regulation of local markets, residential zoning, and land tenure. Initially, however, this devolution of expenditure responsibilities was not accompanied by political decentralization. On the contrary, the central government retained the power to veto local councils' decisions and to hire and fire elected government officials. With the enactment of decentralization laws in 1996 (Law 96-06 1996; Law 96-07 1996; Law 96-10 1996), the country implemented a more effective democratic decentralization initiative with a more tangible devolution in expenditure responsibilities and revenue autonomy to rural and municipal councils. In fact, the decentralization laws introduced new sources of revenues at the local government level: a fiscal minimum tax charged on the income of shopkeepers, rental property owners, and independent workers; a charge

representative of the fiscal minimum tax payable on salaries, allowances, pensions, and annuities; a rural tax levied on all residents ages 14–60 outside urban areas; a business tax; license fees; and finally, a tax on improved property, a tax on unimproved property, and a surtax on unimproved or insufficiently improved land (Law 96-06 1996, articles 250, 251). These latter taxes constitute the property taxes in Senegal.

According to the traditional theory of fiscal decentralization, user charges and fees, taxes on vehicles, and property taxes are considered good local taxes. In particular, property tax is considered a good local tax in the sense that property, particularly land, cannot easily be moved out of the taxing jurisdiction; it is considered fair as long as it is used to finance public services and infrastructure reflecting the needs of local communities; and it is highly visible to ensure accountability and transparency. However, if property tax constitutes an important potential source of revenue, especially at the local government level

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in many developed and developing countries, it has nonetheless remained a small portion of tax revenue in many African countries. This is especially true in many francophone countries in Central and West Africa, especially in Senegal.

To ensure sufficient funding at the local government level in Senegal, it is crucial that the property tax be restructured at both the policy and the administration level. The goal of this report is to examine the property tax system in Senegal as *legislated* and as *practiced* in that country, to establish the importance and extent of annual property taxes and property transfer taxes as sources of national and/or municipal revenue, and to identify priorities for property tax reform in the country.

The remainder of this study is organized as follows: To start, the basic country information and government structure in Senegal are presented. Then, land issues and the extent of the property market are examined. Next, the property tax system as legislated and practiced in Senegal is described followed by an analysis of the importance of annual property taxes and property transfers taxes as sources of revenues at the local government level. Finally, a summary of the trends and future role of property tax in Senegal is presented as well as the report's conclusions.

## **Country Information and Government Structure**

### **Basic Facts**

The Republic of Senegal is located in West Africa. It is bordered on the north by Mauritania, on the east by Mali, on the west by the Atlantic Ocean, and on the south by Guinea and Guinea-Bissau. Interestingly, Senegal surrounds Republic of The Gambia on three sides. The Gambia's fourth border is the Atlantic Ocean. The capital of Senegal and its largest city is Dakar.

Senegal has a geographic size of about 75,749 square miles (196,190 square

kilometers) and a population, according to 2008 estimates, of approximately 12.5 million (International Monetary Fund 2008). The *Wolof* ethnicity, which represents approximately 43 percent of the population, is the largest ethnic group in Senegal, followed by the *Peul* and *Toucouler* who together comprise the second largest group (24 percent). Approximately 95 percent of the Senegalese population adheres to Islam, while only 4 percent of the population identifies itself as Christian and 1 percent still holds traditional indigenous beliefs (animism).

French is the official language in Senegal while *Wolof* is the most widely spoken ethnic language. The official currency in Senegal is the CFA franc (CFAF). CFA stands for *Communauté Française d'Afrique* or French community of Africa. As of June 17, 2011, US\$1 = CFAF 460 and €1 = CFAF 656.

In 2008, the gross domestic product (GDP) per capita in Senegal was estimated to be about US\$ 1,027 (current prices). Senegal's key industries include groundnuts, chemical production, tourism, fisheries, and services (International Monetary Fund 2008).

The urban population in Senegal reached 41.6 percent in 2005 with most of the population concentrated in Dakar, Touba, Thiès, Rufisque, Kaolack, M'Bour, and Saint-Louis (United Nations 2008). The 2010 urbanization figure is estimated to be about 42.9 percent. According to 2005 estimates compiled by the National Office of Statistics and Demographics (ANSD 2009), Dakar is by far the largest city in Senegal with more than 2 million inhabitants, followed by Touba with approximately 500,000 residents. Thiès, the third largest city, has a population of just over 240,000. Three other cities—Rufisque, Kaolack, and M'Bour have nearly 187,000, 173,000, and 170,000 inhabitants respectively. Saint-Louis' population has reached around 130,000 residents.

Senegal has been an independent republic since 1960. The President of the

Republic is elected by direct universal suffrage in a two-round majority-basis vote. The initial term is five years with the opportunity for re-election to a second five-year term. (In 2001, the presidential term was changed from seven years to five.) Senegal adopted a multiparty system in the 1970s and since then, up to 80 political parties have been officially registered. The current president is Abdoulaye Wade, who has been in office since April 1, 2000. He was re-elected to a second term in March 2007. Currently, Senegal is one of the few countries in Africa that has never experienced a coup d'état. (Sciences Po Bordeaux n.d.; U.S. Department of State n.d.)

### **Government Structure/Political and Fiscal Decentralization**

Senegal is divided into five levels of administrative units: 14 regions, 45 departments (*départments*), 117 arrondissements (*arrondissements*), 150 *communes* or municipalities, and 349 rural municipalities or communities (*communautés rurales*). The number of regions grew from 11 to 14 with the publication of Decree 2008-1025 (2008), which transformed the *départements* of Kaffrine, Sédhiou, and Kédougou into regions. (Au-Senegal.com 2009) The *arrondissements* in the region of Dakar are further subdivided into 43 *communes* of *arrondissement* (*communes d'arrondissement*) (ANSD 2007; Decree 2002-166 2002).

Regions are administered by an elected regional council and a state-appointed governor and, as such, remain under the control and authority of the central government.

The *départments* and *arrondissements* are strictly administrative entities and wield no independent political power. *Départments* are administered by a prefect (*préfet*) who is appointed by decree and is under the authority of the governor. The prefect is the representative of the President of the Republic, the Prime Minister, and the Ministers. A sub-prefect

(*sous-préfet*), also appointed by decree, oversees the *arrondissement* and is subject to the authority of the prefect. He also is a delegate of the President of the Republic, the Prime Minister, and the Ministers (World Bank 2003).

*Communes* in urban areas and *communautés rurales* in rural areas are administered by elected municipal and rural councils. The councilors are elected for five years. After the election, the council nominates the president and the vice chair as the local executive body (Dickovick 2005; World Bank 2003).

The *Decentralization Law no. 96-06 of March 22, 1996*, establishes two tiers of subnational governments in Senegal termed *collectivités locales* which are defined as "elected structures of government with some independence from the center." Such *collectivités locales* encompass on the one hand, the 14 elected regional governments; and on the other hand, two forms of local governments: *communes* in urban areas and *communautés rurales* in rural areas (Law 96-06 2006, article 1).

As provided in the decentralization law, regions are administered by a regional council and by an executive office composed of a president, a first and second vice president, and two secretaries, all elected from within the council. All members of the regional council are elected by direct universal suffrage for a five-year term. *Communes* in urban areas are governed by a municipal council and an executive office composed of a mayor and one or more deputy mayors elected from within the council. As with the regional council, all members of the municipal council are elected by direct universal suffrage for a five-year term. *Communautés rurales* in rural areas are governed by a rural council and an executive office which consists of a president and two vice presidents elected from within the council. Members of the rural council are elected for a five-year term by direct universal suffrage in accordance with the electoral code (Law

96-06 1996, articles 18, 28, 98, 202).

The decentralization law grants certain powers to subnational governments. One area of legislative responsibility assigned to the regions is the promotion of economic, educational, social, health, cultural, and scientific development at the regional level while respecting the autonomy and prerogatives of the *communes* and *communautés rurales* (Law 96-06 1996, article 25). At the local level, the planning, programming, and management of local development strategies fall within the purview of *communes*; while areas such as land occupation planning, occupation authorization, allocation of national domain lands, investment projects in human capital, and maintenance and improvements of public roads, parks, and open spaces are the responsibility of *communautés rurales* (Law 96-06 1996, articles 88, 195).

The *Decentralization Law no. 96-07 of March 22, 1996* (Law 96-07), which sets forth the transfer of power to regions, *communes*, and rural communities, defines in more detail the assignment of expenditure responsibilities, the revenue assignment, and the intergovernmental transfers among local governments—three important components of a decentralized system of finance. It is important to note that the transfer of power and resources enabled by Law 96-07 was not extended to the *départments* and *arrondissements* which remain solely administrative units with no independent political power. However, the prefect of the *département* carries out within the *commune* the duties imposed upon the office by the decentralization laws and regulations. Whereas the sub-prefect of the *arrondissement* performs within the rural municipalities the functions assigned to the office by the decentralization laws and regulations (World Bank 2003).

Overall, while some aspects of political and fiscal decentralization are currently observed in Senegal, as reflected in elections and intergovernmental transfers to subnational governments, shortcomings

in the fiscal decentralization process remain in the form of circumscribed revenue and spending autonomy. Additionally, subnational governments, i.e., regions as well as *communes* and rural communities, are hindered in the decentralization process by insufficient skilled and qualified personnel (Barro 2006).

The next section describes the range of land issues of concern in Senegal, the extent of its property market, and the effect these factors have on property taxation in Senegal.

## Land Issues and the Property Market

### Land Issues

Two laws regulate national land tenure and land management in Senegal: the *National Domain Law of 1964* or *Loi n° 64-46 du 17 juin 1964 relative au Domaine National* (Law 64-46) and the *Rural Council Law of 1972* or *Loi n° 72-25 of 19 avril 1972 relative aux Communautés Rurales* (Law 72-25). Under the *National Domain Law of 1964*, all land not in the public domain that was unregistered or not registered within a two-year grace period became the property of the State as part of the national domain (Law 64-46 1964, articles 1, 14). Public domain land includes all land that is registered under the name of the State and that is untransferable. National domain land consists of all State-controlled land for which a land title has not been issued (Durand-Lasserve and Ndiaye 2008). National domain land represents between 97 and 98 percent of the land in Senegal. Hence, since enactment of the 1964 national domain law, customary land ownership or traditional tenure is not recognized by law.

The national domain law was enacted, in part, as a result of the central government's desire to protect the poor against the continuing misappropriation of land by religious leaders and rural elite. The central government also regarded the national domain law as a means of improving the efficiency of land allocation

and land use in Senegal in accordance with development planning, land management, and zoning programs (Bruce 1998; Law 64-46 1964, article 2).

The *National Domain Law of 1964* divided the national domain into four categories of land: (1) urban zones (*zones urbaines*) which include all lands located in urban areas or community settlements; (2) classified zones (*zones classées*) which encompass all government-designated forest areas and government-protected zones; (3) agricultural zones (*zones des terroirs*) which cover all lands that at the time of the law's enactment, were used for rural housing, agricultural purposes, and pasture; and (4) pioneer zones (*zones pionnières*) which include all other types of land (Law 64-46 1964, articles 4–12). It should be noted that agricultural zones, although under the control of rural councils, which are responsible for land use, improvement, and development, remain under the supervision of the central government.

Under the *Rural Council Law of 1972*, rural councils are given the right to allocate land in rural areas according to customary practice provided the land is efficiently utilized (Law 72-25 1972, article 24). Since 1964, however, these lands have been held in the national domain and cannot be sold (Law 64-46 1964). In fact, the government is reluctant to lose ownership of national domain land in rural areas because it can thus maintain control over agriculture, herding, and natural resource management. Hence, parties who receive land allocations only have the “right of use” (Bruce 1998).

For land in urban areas, new legislation and a decree, both enacted in 1987, authorized the sale of national domain lands allocated for housing in urban areas (Law 87-11 1987; Decree 87-271 1987). The aim was to encourage ownership and bequeathment of land (Bruce 1998). Overall, the current land legislation in Senegal encourages individual private tenure through a formal land regularization procedure in urban areas

(Law 64-46 1964, article 3) but recognizes communally-based management and utilization of the land in rural areas.

De facto, however, a considerable portion of land in Senegal, both urban and rural, is still managed through customary land tenure systems. One such system exists within the *Wolof* community, a hierarchical group that vests customary rights in the descendants of people who had originally cleared the land. The eldest male in the lineage, in general, holds the right to allocate and administer the land. This right is passed on, not from father to son, but from the eldest male to the next eldest male in the lineage. The head of the lineage then allocates use rights, but not ownership rights, to parcels of land to members of the lineage. These use rights could subsequently be bequeathed by a father to his son without the authorization of the head of the lineage. In such a system of customary rights, a stranger without any ties to the original settlers could pay a specified amount in exchange for use rights (Bruce 1998).

In urban areas, even though customary rights have not been recognized by law since the *National Domain Law of 1964*, customary ownership of land is still widespread (Durand-Lasserve and Ndiaye 2008). Additionally, because the law does not clearly prescribe a framework for when to apply either national or customary land tenure laws—which are often contradictory, rural councils have unfettered discretion and often use whichever law would benefit wealthy or influential members of the community over poorer or less influential members (Bruce 1998).

In Senegal, formal land tenure rights are granted primarily in three forms: (1) The land title or *titre foncier* provides an individual with full ownership of the land. (2) The lease or *bail* permits occupancy of the State's private domain or national domain land. These leases typically are written for a 30-year term and are renewable. (3) Surface rights

or *droit de superficie* grant property rights for a period of 50 years and can be renewed one time. Surface rights can be inherited, transferred, and mortgaged. At this time, however, a temporary restriction has been placed on the transfer of surface rights during the first 5 years that follow tenure regularization. The restriction prevents the transfer of rights without prior government authorization for a period of 5 years. Additionally, surface rights fees must be paid in full at the time of delivery. Surface rights can be converted into a land title (*titre foncier*) after the land has been developed and the costs (fees and taxes) attached to the land paid in full (Durand-Lasserve and Ndiaye 2008).

The procedures required to obtain land tenure rights in Senegal are regulated by *Decree no. 91-748 of July 29, 1991*; the *Code du Domain de l'Etat* (CDE) (1976); and the *Commission de Contrôle des Opérations Domaniales* (CCOD). To begin, the individual applicant prepares a letter of reservation for a specific parcel of land and sends it to the *Receveur des Domaines*. Next, the *Receveur des Domaines* completes the following administrative procedures: (1) consults with Urban Planning to ensure that areas to be titled are in conformity with official planning and zoning norms; (2) requests the cadastre department provide a survey of areas to be titled and record the survey information; and (3) as appropriate, seeks from other agencies, such as tourism or the environment department, input or information. The application is then transferred to the *Directeur des Domaines* for approval before submission to the CCOD. After the CCOD's approval, the *Receveur des Domaines* prepares the appropriate title documents for land title, lease, or surface rights. These documents are signed by the applicant, the *Receveur des Domaines*, and an authorized State representative. The title documents must then be approved by the Minister in charge of the domain to be official. Finally, the title document is delivered to the applicant, the land registry is prepared and updated,

and the information is communicated to other authorities (AIIDS 2002; Durand-Lasserve and Ndiaye 2008).

As can be seen, the land tenure regularization process is quite lengthy and cumbersome; and unfortunately, the various land administration agencies in Senegal do not possess sufficient financial and human resources to efficiently implement land regulation processes. According to Durand-Lasserve and Ndiaye (2008), before 1993 when simplifications in the process were proposed, tenure regularizations and the granting of property rights in Dakar required 44 steps and the involvement of 12 different central and local administrative offices. After 1993, the process was reduced to 14 steps and 10 offices. Additionally, there is no strict enforcement of tenure regularization procedures which impedes considerably the tenure regularization and land titling in Senegal.

### **The Property Market**

The introduction of an ad valorem-based local property tax has been widely acknowledged as a crucial tool in creating fiscal autonomy at the local government level in countries around the world. However, an ad valorem-based property tax can only be justified, achieved, and maintained in the context of a mature property market. In general, countries around the world have adopted an area-based property tax system as a temporary solution until conditions have been met to establish a tax system based on relative property value (McCluskey, Plimmer, and Connellan 2002). In effect, area-based systems (in which assessment is done on the basis of property size) and location-based systems are commonly reputed to be regressive, unfair, inconsistent with the ability-to-pay principle, and characterized by a lack of buoyancy. On the other hand, value-based tax systems, which include capital value-based systems (land only, buildings only, land and buildings separately, land and buildings collectively) and annual rental value-based systems,

are in general a relatively good proxy for the ability to pay and reflect the quality of public services provided. These value-based systems require, however, extensive property market data and a good deed registration system. They are also resource intensive and require a certain level of skills, capacity, and maintenance.

In general, the state of the property market and land tenure issues in a country, among other things, determine the most appropriate valuation basis for property tax assessment (whether value-based or non-value-based).

In Senegal, the property market remains imperfect. The 2002 census revealed that in the Dakar urban area, which includes the cities of Dakar, Rufisque, and Pikine, 44 percent of households were owners, 48 percent were tenants, and 8 percent were accommodated for free through administrative certificates allocated by the government. However, the term, owner, can refer to either “regular owners” who possess a land title, a surface right, a lease, or an administrative permit or “irregular owners” who have none of these documents but would have a private land sale contract obtained from a person claiming a customary right to the land (Durand-Lasserve and Ndiaye 2008).

Since the early 1990s, land tenure regularization programs have been implemented in informal settlements in Dakar with the objective of regularizing the informal settlements in urban areas by providing property rights to occupants primarily through the allocation of a specific land title, i.e., surface rights as a first step toward the grant of a freehold land title. Land tenure regularization programs include procedures such as surveying areas to be titled, recording compiled information, identifying potential rights holders and claimants, preparing and allocating title documents, preparing and updating the land registry, and exchanging information with other relevant authorities (Durand-Lasserve and Ndiaye 2008).

Between September and November 2007, Durand-Lasserve and Ndiaye conducted a household random survey in five settlements in Dakar. Four had been regularized and one had not. The survey found that surface rights was the predominant tenure status of occupants in the four regularized settlements. In the unregularized settlement, 42 percent of households had an administrative certificate for occupancy or a government lease and 19 percent had access to land through customary right.

Additionally, the results showed that although a significant number of households were entitled to a surface right in regularized settlements, only a small portion had actually been delivered the right. They still were able to use the land without it though. This situation is explained, for the most part, by the high cost of the regularization process, which potential beneficiaries are often unable or unwilling to pay, and the delays involved in the tenure regulation procedures. Furthermore, the five-year restriction on land transfer after a surface right is delivered without the authorization of the land administration agency has resulted in the creation of an informal land market of regularized plots. The report further showed that since the inception of the land tenure regularization program in Senegal, very few surface rights have been converted into freehold land titles (Durand-Lasserve and Ndiaye 2008).

These findings would indicate that in Senegal, a small portion of the population actually holds a surface right and an even smaller portion possesses a freehold title that would provide an individual with full ownership of the land. This situation would considerably limit the extent of the property market in Senegal. In this context, the implementation of a successful ad valorem property tax system might be greatly hindered.

The next section provides a brief overview of the overall property tax system in Senegal.

## Property Taxation in Senegal

### Property Tax System as Legislated in Senegal

The property tax legislation currently in place in Senegal is quite comprehensive and is based on the *Decentralization Law no. 96-06 of March 22, 1996*. In accordance with articles 243–255 of the *Decentralization Law no. 96-06* and articles 215–241 of the General Tax Code of the Republic of Senegal (GTC 2007) as amended by *Law no. 2004-12 of February 6, 2004*, local governments are entitled to levy property taxes and other direct local taxes as part of their own revenue sources. However, the legislation stipulates that with the exception of a few taxes, all local taxes are assessed, levied, and collected by the central government and the proceeds are largely, if not totally, transferred to local governments. Only the following taxes and charges are collected at the local level, specifically at the *commune* level: fiscal minimum tax, charge for the use of public places, and advertising charges (Sylla 2008a).

Three types of property taxes are levied in Senegal: the tax on improved property (*contribution foncière des propriétés bâties*), the tax on unimproved property (*contribution foncière des propriétés non bâties*), and the surtax on unimproved or insufficiently improved land (*surtaxe sur les terrains non bâtis ou insuffisamment bâtis*). These property taxes are described in detail in this section.

In general, property taxes in Senegal rest on a value-based system in which assessment is done on the basis of *annual rental value* or *capital value* depending on the property taxed.

#### Property Tax on Improved Property

##### Tax Base

The assessment of the property tax on improved property, also known as the property tax on developed land or the tax on buildings, is based on the *rental value* of all developed land containing permanent structures, including facto-

ries, on January 1 of the taxable year. The rental value is defined as the value of both land and improvements in terms of the annual rent that the owner could derive from them (GTC 2007, articles 221–222; Law 2004-12 2004).

##### Coverage

The property tax on improved property is levied on construction set on masonry foundations and made of iron and wood such as houses, factories, industrial plants, and hangars. The property tax on improved property also is levied on noncultivated land used for commercial and industrial purposes such as construction sites and warehouses. Equipment in industrial plants that is placed permanently within the building (i.e., placed *à perpétuelle demeure*) or attached to a special foundation that is an integral part of the building as well as any commercial or industrial fixtures are also subject to the property tax on improved property (GTC 2007, articles 215–216).

##### Taxpayer

Taxpayers of the tax on improved property in Senegal are owners of said property. Persons or businesses holding a property deed or a temporary or permanent occupancy title (e.g., usufruct or emphyteutic lease), and who are actually occupying the property on which a taxable construction has been built, are considered owners of said property. The improved property tax is due on January 1 of the taxable year (GTC 2007, articles 223–225; Law 2004-12 2004).

##### Valuation/Assessment

The annual rental value of improved property on January 1 of the taxable year is determined by means of the cadastral method or, failing that, by comparison with other like premises in the area for which rental values have been regularly established or are well known. The rental value of the equipment in industrial plants is determined by means of direct appreciation (*voie d'appréciation directe*) as defined by the Ministry of Finance (Sylla 2008b).

The cadastral method also called the corrected area method (*méthode de la surface corrigée*) is conducted by cadastral technicians and experts. This method incorporates elements such as area, number of rooms, existing installations, material used, and the age of the building to which correction coefficients are applied to accurately determine the rental value. The comparison method bases a property's value on the annual rental value of properties that are within the same area and that are comparable in size, quality, amenities, and features. The direct appreciation method is used in the computation of the rental value of industrial plants and factories, such as public construction companies, drilling companies, and power supply companies, for which reliable comparable elements are not available (Sylla 2008b).

The direct appreciation method shares certain similarities to the cadastral method. To determine the rental value of such companies, first the market value of each production factor—land, buildings, installed machinery and equipment, and materials and tools—is calculated. As part of these calculations, abatement coefficients are applied to each factor as follows:

- Land: market value = cost
- Buildings: market value = cost – 40% or 60% of cost
- Installed machinery and equipment: market value = cost – 40% or 60%
- Materials and tools: market value = cost – 50% or 60%.

Second, the rental value of each factor of production is calculated as a percentage of its market value as follows:

- Land: rental value = market value or cost × 3%
- Buildings: rental value = market value × 8%

- Installed machinery and equipment: rental value = market value × 8%
- Materials and tools: rental value = market value × 10%.

The total rental value of industrial plants and factories is then the sum of rental values of all production factors (Sylla 2008b).

Additionally, owners, principal occupants, and building managers must provide to official valuers before January 31 each year a signed statement including, among other things, the names of their tenants and the amount of rent. If taxpayers do not submit this subscribed statement or provide it after the deadline, they are subject to a fine equal to 25 percent of the property tax based on the rental value of the building (GTC 2007, articles 222, 225; Law 2004-12 2004).

#### *Objections and Appeals*

In accordance with the GTC, for most taxes imposed in Senegal, property taxes included, taxpayers who believe they have been wrongfully taxed or overtaxed can submit a written claim to a conciliation commission created by the Ministry of Finance within two years after the date of tax payment. Taxpayers who believe they were wrongfully taxed also have the option to go to court within three months of receiving the tax payment notification. Should taxpayers not be satisfied with the court's ruling or the commission's decision, they may further appeal to the appropriate regional court within three months following the receipt of the tax bill notification and the written notice of the claim's rejection (GTC 2007, articles 969, 1042 et seq., 1054, 1057–1058; Law 2004-12 2004).

#### *Tax Rates*

The tax rate on improved property is fixed in the legislation by the central government and varies depending on the category of buildings. The tax rate on improved property is set at 5 percent

of the rental value for all properties except industrial plants and factories. For industrial plants and factories, the rate is 7.5 percent (GTC 2007, article 226; Law 2004-12 2004).

#### *Exemptions, Rebates, and Deductions*

Both permanent and temporary exemptions from the tax on improved property are permitted under the Senegal tax code.

*Permanent exemptions* include: buildings or constructions belonging to the state, to municipalities, and to public institutions provided that they are used for a public purpose or provide services of general utility and do not generate revenues; facilities in seaports and internal navigation routes, which are subject to public equipment concessions granted by the State to chambers of commerce or municipalities; drinking water or electrical power supply infrastructure systems belonging to the State and municipalities; buildings used for worship; buildings used by the owner for educational, health, or social purposes; buildings used to house farm animals or to store agricultural harvests; and finally residential housing occupied by the owner when the rental value does not exceed CFAF 500,000 (1 CFAF = US\$ 0.0019 or € 0.0015) (GTC 2007, article 217; Law 2004-12 2004).

*Temporary exemptions* are granted for new construction, remodeling, and additions for a five-year period starting after the year of completion. This exemption does not apply to industrial plants and buildings used for commercial or industrial purposes (GTC 2007, articles 218; Law 2004-12 2004). To benefit from a temporary exemption, the owner must send a statement to the Taxation Director (*Directeur des Impôts*) within four months of the start of construction, specifying the nature of the new building, its location, and its coverage area. Additionally, between the day construction is completed and January 1 of the next year, the owner must deliver to the Taxation Director a legal certificate is-

sued by the authority granting building permits that certifies that the building was erected in accordance with building regulations and acceptable construction standards (GTC 2007, articles 219–220; Law 2004-12 2004).

Finally, a *rebate or reduction* may be granted to a taxpayer if a building is vacant or a commercial or industrial establishment becomes inoperative for reasons beyond the taxpayer's control and the premises remain idle for at least six consecutive months (GTC 2007, article 227; Law 2004-12 2004).

#### *Tax Administration (Billing, Collection, and Enforcement)*

Pursuant to the GTC and as mandated by the Minister of Finance, the General Director of Taxes and Domain issues each month a list of all taxpayers in a certain area (i.e., valuation roll or *établissement des rôles*) and transfers the corresponding property tax bill notifications (*avertissements, titres de perception*) to the Treasury's tax officials who are in charge of revenue collection (*receveurs de recettes*). The date on the tax bill notification determines the starting point of the time limit on property tax collection, prescription, and claims. Treasury's tax officials responsible for revenue collection subsequently make the necessary arrangements to immediately notify taxpayers of their tax liability. Per article 1027 of the GTC, tax bill notifications should be provided to taxpayers on paper (hand delivered by Treasury's tax collectors). The Treasury department in charge of local tax collections in Senegal is called *Recettes des Perceptions Municipales* (GTC 2007, articles 1021–1027; Sylla 2008a).

The tax legislation also requires payment of the property tax liability, regardless of its amount, at the latest on the last day of the first month following the month when the valuation roll and the corresponding property tax bill notifications were emitted. However, in the event of permanent departure from Senegal,

personal bankruptcy, liquidation subject to supervision of the court, voluntary or mandatory company liquidation, job resignation, or taxpayer's death, property tax payments are due immediately after issuance of tax bill notifications (GTC 2007, articles 1028–1030).

If property tax bills are not paid, the tax legislation permits the following enforcement measures to be taken against potential tax evaders: (1) Interest on arrears equal to 10 percent of the unpaid tax liability can be charged when a tax payment has not been received by the last day of the second month following the month when the valuation roll and the corresponding property tax bill notifications were emitted. Subsequently, an additional interest charge of 10 percent of the principal can be added to the taxpayer's liability if payment is not received within one year of the application of the first interest charge on arrears. (2) A seizure and auction also can be implemented through the following procedures: To start the process, the Treasury's tax collector issues a demand notice (*summation sans frais*) giving the taxpayer 12 days to settle the tax debt. If after 12 days the tax liability has not been paid, the Treasury's tax collector signs and sends out a warning letter (*commandement*) that is delivered in person to the taxpayer. After the issuance of the warning letter, a property seizure order may be set forth. The seizure order directing the Treasury's prosecution agents to take possession of all or part of the property is vacated if the taxpayer acquits the debt. Finally, a property sale order is entered if the seizure order is not vacated.

Following are some of the penalties allowed at different stages of the prosecution of tax evaders in Senegal:

- Warning letter (*commandement*): 3 percent of tax liability
- Property seizure (*saisie*): 5 percent of tax liability
- Inventory of property under

seizure (*recollement*): 2.5 percent of tax liability

- Notice of property sale order: 1.5 percent of tax liability
- Bill posting: 1 percent of tax liability
- Inventory before sale: 1 percent of tax liability
- Seized property sale report (*procès-verbal de vente*): 1 percent of tax liability

(GTC 2007, articles 999; 1062–1072; *Law* 2004-12 2004).

### **Property Tax on Unimproved Property**

#### *Tax Base*

The assessment of the tax on unimproved property, also known as the property tax on nondeveloped land, is based on the *market value* of property on January 1 of the taxable year (GTC 2007, article 229; *Law* 2004-12 2004).

#### *Coverage*

The tax on unimproved property is levied annually on all types of unimproved property located within the boundaries of *communes*, in urban communities, and in community lots designated by order of the Minister of Finance. Land with construction in progress also would be subject to the tax on unimproved property if the building work is not completed within three years after the start of construction (GTC 2007, article 228).

#### *Taxpayer*

Taxpayers of the tax on unimproved property in Senegal are owners of said property. Persons or businesses holding a property deed (e.g., usufruct or emphyteutic lease) are considered owners of the property (GTC 2007, articles 231–232).

#### *Valuation/Assessment*

The market value of unimproved property is determined as of January 1 of the taxable year by means of the cadastral method. Failing that, the market value

of unimproved property would be assessed on the basis of conveyances (*actes translatifs*) of taxable properties within the past three years. If unimproved land has not been developed for three years, the market value is then determined by means of comparison with other land that is within the same area and comparable in size, quality, and features and for which the market value was assessed based on conveyances that were less than three years old.

As with the valuation of improved property, the cadastral method as applied to unimproved property is conducted by cadastral technicians and experts. This method uses elements such as area to which correction coefficients are applied to accurately reflect the market value (GTC 2007, article 229; Law 2004-12 2004).

#### *Tax Rates*

The tax rate on unimproved property is fixed in the legislation. The tax rate is set at 5 percent of the market value of undeveloped property (GTC 2007, article 233).

#### *Exemptions, Rebates, and Deductions*

A variety of exemptions from the property tax on unimproved property are stipulated in the tax legislation in Senegal. Specifically, the GTC allows for the following exemptions: buildings or constructions belonging to the State or to municipalities provided that they are used for a public purpose or provide services of general utility and do not generate revenues; gardens and tree nurseries created by the administration and agricultural collectives (*sociétés d'intérêt collectif agricole*); undeveloped land used by commercial and industrial companies for purposes related to their specific activities; land surrounding residential housing; land used for recreational activities; land used for worship; and land used by the owner for educational and health purposes (GTC 2007, article 230).

Finally, the requirements regarding objections and appeals as well as tax

administration for the property tax on unimproved property as stipulated in the tax legislation are similar to those enacted for the property tax on improved property.

#### ***Surtax on Unimproved or Insufficiently Improved Land***

##### *Tax Base*

The assessment of the surtax on unimproved or insufficiently improved land is based on the *market value* of the land (GTC 2007, article 238; Law 2004-12 2004).

##### *Coverage*

The surtax on unimproved or insufficiently improved land is imposed independent of the property taxes described in previous sections in *communes* of the Dakar region and in the administrative towns or capitals (*chef-lieu*) of *communes* in the remaining regions of Senegal. The surtax on unimproved or insufficiently improved land is levied in addition to the tax on improved property if the buildings erected on a property have an estimated market value lower than the market value of the land (GTC 2007, articles 234–235; Law 2004-12 2004).

##### *Taxpayer*

Taxpayers of the surtax on unimproved or insufficiently improved land in Senegal are owners of said land. Persons or businesses holding a property deed (e.g., usufruct or emphyteutic lease) are considered owners of the land (GTC 2007, article 236).

##### *Valuation/Assessment*

In Senegal, the surtax on unimproved or insufficiently improved land is assessed on the basis of the market value of the land. As cited earlier, the market value of the land may be determined by means of the cadastral method, on the basis of conveyances, or by the comparison method.

##### *Tax Rates*

In Senegal, differential surcharge rates are applied to unimproved or insuf-

ficiently improved land according to market-value tiers established by each local jurisdiction. Tax rates in *communes* of the Dakar region and in capital cities of *communes* in the remaining regions of Senegal are presented in table 1.

**Table 1.** Tax rates on unimproved or insufficiently improved land

Market value (in CFAF*)	Tax rate
<i>Communes of Dakar Region</i>	
If the market value is between:	
1,000,000 and 10,000,000	1%
10,000,000 and 20,000,000	2%
over 20,000,000	3%
<i>Saint-Louis</i>	
1,000,000 and 4,000,000	1%
4,000,000 and 10,000,000	2%
over 10,000,000	3%
<i>Diourbel, Kaolack, Louga, Thies, and Ziguinchor</i>	
1,000,000 and 3,000,000	1%
3,000,000 and 5,000,000	2%
over 5,000,000	3%
<i>Fatick, Kolda, Tambacounda, and Matam</i>	
500,000 and 2,000,000	1%
2,000,000 and 4,000,000	2%
over 4,000,000	3%

Source: GTC (2007, article 238); Law 2004-12 (2004)

\* CFA franc, the currency used in Senegal. CFA stands for Communauté Française d'Afrique or French community of Africa. As of June 17, 2011, 1 CFAF = US\$ 0.0019 or € 0.0015.

#### *Exemptions, Rebates, and Deductions*

The GTC allows some exemptions from the surtax on unimproved or insufficiently improved land. Such exemptions are lands under an interdiction to build and lands for which the owners are temporarily deprived of their use for reasons beyond their control (GTC 2007, article 237).

As mentioned in previous sections, the requirements stipulated in the tax legislation regarding objections and appeals and all aspects of property tax administration including billing, collection, and enforcement are similar for all types of property taxes levied in Senegal.

The next section compares the comprehensive property tax legislation in place in Senegal with what is understood to be the current practice to determine if any significant discrepancies exist.

### **Property Tax System as Practiced in Senegal**

Although comprehensive property tax legislation has been enacted, implementing the provisions of the law still remains somewhat of a problem in Senegal.

#### *Property Discovery/Valuation/Assessment*

As prescribed in the legislation, the annual rental value of improved property is determined by the cadastral method or failing that, by comparison with other premises chosen in the same area for which rental values have been regularly established or are well known (GTC 2007, article 222). Similarly, the market value of unimproved property or of insufficiently improved land is determined by means of the cadastral method, on the basis of conveyances, or by the comparison method (GTC 2007, article 229). The cadastral method relies on the knowledge of cadastral technicians and experts.

De facto, the Cadastre of Senegal is not yet involved in property discovery and valuation and assessment of property. These functions are performed by the Office of Taxes and Domain (*Direction Générale des Impôts et Domaines* or DGID). Currently, the valuation roll is prepared and maintained by DGID's valuers with the assistance of local government officials who are trained by DGID. Property discovery is based on a manual system. First, DGID's valuers survey the land; locate and identify taxable properties; and if possible, collect basic information such as nature of the property, name of property owner or tenant, number of people living in the house, amount of rent, and so on. Second, DGID's agents request from property owners and principal tenants a document providing relevant and detailed information about their

property to aid in the discovery process. Finally, based on the collected information, DGID's agents construct a fiscal cadastre, i.e., "a compilation of the basic property information necessary for valuation, assessment, billing, collection, and enforcement" (Kelly and Musunu 2000).

However, the coverage ratio remains very small in Senegal. According to Sylla (2008a), approximately 40 major cities and 36 *communes* are currently entered in the fiscal cadastre, while coverage has not yet been extended to other smaller *communes* and rural properties. This poor coverage ratio can be attributed to various debilitating factors:

- Insufficient physical and financial resources, such as maps, vehicles and gasoline, computers and other equipment, and skilled personnel
- Political and religious leaders who try to use their influence to exclude their properties from the fiscal cadastre
- Lack of enforcement against taxpayers who fail to provide required property information forms. Indeed, taxpayers are often reluctant to provide the detailed information about their property necessary for the discovery and the valuation process. This lack of compliance is evident especially in suburban areas, which exhibit a collection ratio of less than 10 percent (Sylla 2008a).
- Difficulty in identifying owners of unimproved property and unimproved or insufficiently improved land.

Fortunately, the government in Senegal is currently introducing administrative improvements to build a broader, comprehensive fiscal cadastre and thus expand the coverage ratio. Notably, support for extensive computerization is under development, and a

new mapping survey is being conducted. Additionally, the European Union financed a computer-assisted mass appraisal (CAMA) system that will be implemented in Senegal in the upcoming years (Fall 2008; Sylla 2008a). Such a system would expand the coverage and valuation ratios and overhaul the ad valorem-based property tax system in Senegal. Finally, Senegal has secured a project loan from the African Development Bank to modernize the Cadastre and acquire topographical equipment such as Total Station surveying tools and global positioning systems (GPS). This project is called *Projet d'Appui à la Modernisation du Cadastre* or PAMOCA.

### ***Objections and Appeals***

In Senegal, the number of objections and appeals concerning property information, valuation, and/or tax assessment is very large. Although such a large number of objections and appeals can affect local government budget estimates due to tax abatements and refunds, they nevertheless help to update the fiscal cadastre. For instance, when confronted by potential taxpayers who are reluctant to provide detailed information about their property or refuse to make their property accessible to valuers, DGID agents would intentionally apply a high market or rental value—depending on the property tax type—which would result in a high tax liability. By doing so, the agents are relying on the inevitable objections filed by these potential taxpayers to obtain the property's information for the fiscal cadastre.

### ***Collection and Enforcement***

Compared to the tax on unimproved property and the surtax on unimproved or insufficiently improved land, the tax on improved property has the best collection ratio in Senegal. One reason for this difference is that it is difficult to identify owners of unimproved property and insufficiently improved land, and thus to collect basic relevant information

for tax purposes. Another reason is that sanctions and penalties are more often imposed for nonpayment of the tax on improved property while compliance is not properly enforced for the tax on unimproved property and the surtax on unimproved or insufficiently improved land (Sylla 2008a).

Additionally, *communes* in the Dakar region have a higher collection ratio compared to other regions mainly because the Taxation Department (*Service des Impôts*) chooses to mobilize its administrative resources for collecting property taxes in the area where the largest portion of the country's economic activity takes place. As a consequence, the potential tax revenue collections from other *communes* and rural communities is simply forgone (Sylla 2008a).

The next section provides an overview of the importance of property tax and property transfer taxes as a source of revenue at the local government level in Senegal.

### **Importance of Annual Property Taxes as Revenue Source in Senegal**

Regional governments in Senegal, unlike *communes* and rural communities, were not given the authority to raise their own regional taxes (*impôts propres*); they were “designed to depend entirely on central government transfers with no independent tax authority of their own” (Dickovick 2005). On the other hand, *communes* and rural communities are able to generate part of their own funding from local taxes and other sources of revenues (AIDS 2001; Law 96-06 1996, article 250). Property taxes are an example of such local taxes. Unfortunately, specific current data that would indicate the importance of the property tax and the importance of the property transfer taxes as a percentage of total revenues at the local government level or as a percentage of total revenue or GDP in Senegal are not available to the public. From the

data available though, it appears that revenues derived from local taxes, and especially property taxes, are limited in general and far below their potential.

Tables 2 and 3 present trends for some of the local taxes levied and collected in Senegal between 2001 and 2004. From the limited information available, it appears that between 2001 and 2004, the total amount of property tax levied (*assiette*) in Senegal represented on average approximately 30 percent of total local taxes in nominal terms (27 percent between 2003 and 2004), while the total amount of property taxes actually collected (*recouvrement*) between 2003 and 2004 represented approximately 17 percent of total local taxes. In particular, in 2003, the collection ratio was only about 44 percent; while in 2004, the collection ratio increased to 51 percent. This low collection ratio can be explained, in part, by two factors: (1) lack of enforcement for noncompliance with the tax on unimproved property and the surtax on unimproved or insufficiently improved land; and (2) collection of property taxes, and especially the tax on improved property, is for the most part limited to *communes* of the Dakar region (Sylla 2008a).

In conclusion, even from the limited information that could be obtained, it is apparent that the property tax is not an important own source of revenue in Senegal. Evidently, transfers from the central government in the form of FDD (Decentralization Fund) and FECL (Local Government Capital Fund) remain a major source of revenue for *communes* and rural municipalities alike (Dickovick 2005).

The next section discusses the trends and future role of property taxation in Senegal.

### **Trends and Future Role of Property Taxation in Senegal**

In 2003, total tax revenues in *communes* represented around 3.94 percent of to-

**Table 2.** Trends in local taxes levied in Senegal (in 000s of CFAF\*)

	2001	2002	2003	2004
Property taxes	7,238,226	6,411,663	6,815,909	6,773,097
Business taxes	12,685,134	14,491,499	15,624,994	21,185,420
Fiscal minimum tax	38,707	42,311	42,790	9,543
License fees	17,937	18,288	16,600	8,342
Single general contribution**				1,519,005
Other taxes	398,852	24		
Total	20,378,856	20,963,785	22,500,293	29,495,407
% change of property taxes		-11.42%	6.30%	-0.63%

Source: PDM (2005)

\* CFA franc, the currency used in Senegal. CFA stands for Communauté Française d'Afrique or French community of Africa. As of June 17, 2011, 1 CFAF = US\$ 0.0019 or € 0.0015.

\*\* The single general contribution (contribution global unique) is levied on enterprises whose annual revenues does not exceed CFAF 50 million. The tax was created by the reform Law no 2004-12 of February 6, 2004 with the main objective of bringing economic activity out of the shadow economy. Local governments receive 60 percent of the SGC payments, while 40 percent goes to the State.

**Table 3.** Trends in local taxes collected in Senegal (in 000's of CFAF\*)

	2003	2004
Property taxes	2,965,241	3,450,058
Business taxes	14,115,855	14,766,230
Fiscal minimum tax/CRFMT**	1,532,728	1,419,754
License fees	1,834	434
Other taxes	918,879	1,006,180
Total	19,534,537	20,642,656

Source: PDM (2005)

\* CFA franc, the currency used in Senegal. CFA stands for Communauté Française d'Afrique or French community of Africa. As of June 17, 2011, 1 CFAF = US\$ 0.0019 or € 0.0015.

\*\* CRFMT is the charge representative of the fiscal minimum tax.

tal government tax revenue and around 0.56 percent of GDP in nominal terms. Considering that property taxes collected accounted for about 15 percent of total local taxes in 2003, Senegal clearly is underutilizing its property tax capacity. A variety of factors account for the ineffectiveness of property taxation in Senegal.

### Low Coverage Ratio

According to Sylla (2008a), while approximately 40 major cities and 36 *communes* are currently covered in the fiscal cadastre, coverage has not yet been extended to other smaller *communes* and rural properties. This lack of coverage could be explained by (1) insufficient physical and financial resources such as maps, vehicles, gasoline, computers and

other equipment, and skilled personnel; (2) political and religious leaders who use their influence to exclude their properties from the fiscal cadastre; and (3) the difficulty in identifying owners of unimproved property and unimproved or insufficiently improved land.

However, the Taxation Department is taking advantage of the voluminous number of objections and appeals to update and expand its fiscal cadastre. In addition, extensive computerization of the property taxation function is under development. A computer-assisted mass appraisal (CAMA) system is scheduled to be implemented in Senegal in the upcoming years (Fall 2008; Sylla 2008a). Meanwhile, a project is underway to modernize Cadastre operations aided

by the acquisition of advanced surveying equipment and GPS capabilities. Senegal has established an adequate legal framework to ensure a comprehensive coverage ratio, and now the Taxation Department is reforming the property tax administration to bring about this result.

These administrative reforms also would help to increase the accuracy level of the valuation ratio particularly in places where the valuation currently is not being done annually as stipulated by law or as frequently as needed to reflect changes in absolute and relative property market values. The valuation ratio is obtained by dividing the total value on the valuation rolls by the real market value of properties on the valuation rolls. It measures the accuracy level of the property valuation. A high valuation ratio could be achieved through recurrent property valuations and simple and cost-effective mass valuation techniques (Kelly 2000).

### Tax Rates

Even though some aspects of political and fiscal decentralization are currently in place in Senegal, as reflected in elections and intergovernmental transfers to subnational governments, certain shortcomings in the fiscal decentralization process still remain. In particular, property tax policy and administrative authority are not devolved to local governments. The central government sets

property tax rates with no discretion given to *communes* and rural communities and collects taxes and refunds them to local governments. So far, there has been no evidence that the central government would be ready to devolve the tax administration aspect of property taxation to local governments. Table 4 summarizes the property tax rate structure in Senegal.

### Collection/Enforcement Ratio

Compliance is not properly enforced in Senegal, especially for the tax on unimproved property and the surtax on unimproved or insufficiently improved land. Furthermore, the Taxation Department has concentrated its administrative resources on collecting property tax in *communes* of the Dakar region where the largest portion of Senegal's economic activity takes place (Sylla 2008a). As a consequence, the potential tax revenue from other *communes* and rural communities is simply forgone. Adopting an approach that would not only promote voluntary taxpayer compliance but also systematically apply penalties and sanctions as stipulated by law in as many local areas as possible would go a long way towards increasing the collection ratio.

### Conclusions

While the property tax system is somewhat effective in the city of Dakar and the

**Table 4.** Property tax rate structure in Senegal

Property tax	Differential value rate		Uniform value rate
	Type of buildings	Land value	
Tax on improved property	5% of rental value for all buildings except industrial plants and factories 7.5% of rental value for industrial plants and factories		
Tax on unimproved property			5% of market value of undeveloped property
Surtax on unimproved or insufficiently improved land		1%, 2%, or 3% according to market value of land	

Source: GTC (2007)

*communes* in the Dakar region, taxation of rural properties is still impractical in Senegal.

According to Kelly (2000), the six major functions of a property tax system—tax base identification, tax base valuation, tax assessment, tax collection, tax enforcement, and dispute resolution and taxpayer service—are related to four fundamental ratios: coverage, valuation, tax, and collection. As the property tax system is currently practiced in Senegal, the coverage, valuation, and collection ratios have been low. Nevertheless, there is tremendous potential for improving basic property tax administration through an increase in these ratios. If properly administered, property tax in Senegal clearly has the potential to become an important source of revenue.

For the most part, poor tax administration in terms of coverage, valuation, collection, and enforcement ratios would account for the fact that property tax is not utilized optimally as an important own source of revenues for local governments in Senegal. However, as previously mentioned, the potential is enormous and can only be tapped if the Taxation Department implements its tax administration reforms and if these reforms are synchronized with a broader fiscal decentralization effort.

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