



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

30 January 1981

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The Honorable Bob Packwood, Chairman
Committee on Commerce, Science,
and Transportation
U.S. Senate



114274

The Honorable Howard W. Cannon
Ranking Minority Member
Committee on Commerce, Science,
and Transportation
U.S. Senate

Subject: [GAO Comments on Department of Transportation
Study of Amtrak State and Local Taxation]
(PAD-81-58)

As requested in your letter of December 11, 1980, we have reviewed the Department of Transportation's "Amtrak State and Local Taxation Study." We agree with the general thrust of the report, which is that Amtrak is essentially a Federal Government operation and as such should be exempt from most State and local taxes. We have reservations, however, about two of the report's recommendations.

As an exception to its proposal to exempt Amtrak from paying State and local taxes, the report recommends that the corporation should continue to pay real property taxes--but with assessments frozen at the 1976 level. We believe that consideration should be given to exempting the corporation from these taxes too and replacing them by a system of "payments in lieu of taxes."

The report recommends that the tax exemption should extend to improvements to private railroad property that have been made at Amtrak's expense. We feel that this recommendation is not adequately justified in the report.

SCOPE AND METHODOLOGY
USED IN THIS REVIEW

These comments are based primarily on a review of the Department of Transportation (DOT) report and GAO's previous work on Amtrak. (The GAO report numbered CED-81-35 contains a bibliography of GAO reports on Amtrak.) We met with analysts in DOT to make sure we understood their intent in the study, but we did not attempt to verify the facts presented in the report. As requested by your staff, we did not secure agency comments on our report.

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SUMMARY OF DOT REPORT

Amtrak paid \$14,351,000 in State and local taxes in 1979. Almost \$9 million of this was for property taxes and about \$5 million was in sales and use taxes. The small remainder was split between gross revenue taxes, excise taxes, license fees, and local payroll taxes.

Although these tax payments seem small beside Amtrak's total operating losses (which amounted to \$582 million in 1978), they may soon grow much larger. As Amtrak upgrades its facilities, real property taxes on right-of-way, stations, etc., will increase, as will personal property taxes on the expensive new rolling stock. There is even the prospect that Amtrak may become liable for State income taxes (it pays none now) since the Internal Revenue Service has ruled that the Federal subsidy to Amtrak is taxable income. This has no effect on Federal liabilities, since the Federal subsidy simply makes up the year's losses, leaving Amtrak with zero taxable profits. But it could in some circumstances result in tax liabilities under State income tax laws. Sales, gross revenue and other tax payments can also be expected to increase as Amtrak expands its services and ridership.

The DOT report argues that Amtrak is a public service operation sustained by the Federal Government, that the property and service improvements upon which the increased tax liabilities are based are funded entirely by the Federal Government, that the taxes themselves are paid out of money appropriated by the Congress, and that Amtrak is no longer designated a "for-profit" corporation. It notes that Federal nonprofit corporations are usually exempt from some or all State and local taxes. It also points out that in Amtrak's case most of the property and services being taxed by the State and local governments exist primarily at the urging of the State and local governments.

The report concludes that Amtrak should be exempted from State and local personal property, sales and use, income, and gross revenue taxes and construction fees and permits. It does not recommend complete exemption from real property taxes but rather freezing assessment levels at those in effect on April 1, 1976. This date was chosen because it is after Amtrak acquired the Northeast Corridor, the corporation's largest real property holding, but before the federally financed improvements that lead to larger assessed values had begun. Permitting real property taxation at 1976 assessment levels is intended to provide State and local governments with some payment for the services they provide Amtrak but prevent the taxation of federally financed improvements. Amtrak would remain subject to all other user fees, licenses, and taxes and would continue to collect retail sales taxes on sales to its customers. Any Amtrak activities

not related to railroad passenger transportation would remain fully taxable. The report also recommends that private railroad companies should be exempt from taxation on improvements to their property that are financed by Amtrak.

GAO COMMENTS

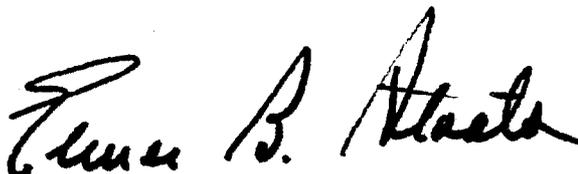
Generally, GAO does not recommend tax exemption as a financing device. The visibility and controllability of government support are usually enhanced and economic distortions minimized by showing normal tax payments as a part of normal operating costs and all government subsidies as explicit payments. Tax exemption makes comparisons with competing taxable activities more difficult.

In Amtrak's case, however, these objections are not very compelling. Amtrak operations are determined more by public service considerations than by economic or profitability criteria; in many instances the services have been requested by the State and local governments. The corporation is already exempt from some State and local taxes; it attempts to negotiate more such exemptions regularly; it receives direct subsidy payments and other forms of assistance from many States as well as from the Federal Government. Given the close financial relationships between Amtrak and various governments, judgments about efficiency and comparisons with taxable competitors such as bus companies and airlines are not facilitated by considering the taxes Amtrak does pay. We therefore agree with DOT that Amtrak's railroad passenger operations should be seen as a Government-controlled, nonprofit public service and should generally be tax exempt.

The DOT study recognizes that a complete exemption from all State and local taxes could work hardships on many communities and that Amtrak does impose costs on State and local governments that are not necessarily related to the benefits it conveys to them. We agree with this point, but are doubtful whether the proposal to freeze property tax assessments at the 1976 level is an adequate solution. This would be an unusual arrangement and would afford no mechanism for responding to changes in Amtrak's demands on State and local services or in the goals of the State and local governments. Most Government corporations analogous to Amtrak make "payments in lieu of taxes" to State and local governments. We believe that this alternative should be considered instead of the proposed assessments freeze.

The study proposes, without much discussion, that improvements made at Amtrak's expense on right-of-way or other real property owned by private railroads should also be exempt from State and local property taxes. This seems to us too broad an extension of the tax exemption. If the improvements are useful only for

Amtrak's purposes and do not really increase the value of the property for the private railroads' own use, exemption might be justified. If, as seems more likely, the improvements also make the property more useful and valuable to the railroad, tax exemption would not be appropriate. This issue is not adequately addressed in the report, and we believe the Congress should not extend the exemption to non-Amtrak property unless a more persuasive case for doing so is presented.

A handwritten signature in cursive script, reading "James B. Atack". The signature is written in black ink and is positioned above the typed name and title.

Comptroller General
of the United States