

Constitution of Nebraska

Article VIII – Revenue

VIII-1. Revenue; raised by taxation; legislative powers.

The necessary revenue of the state and its governmental subdivisions shall be raised by taxation in such manner as the Legislature may direct. Notwithstanding Article I, section 16, Article III, section 18, or Article VIII, section 4, of this Constitution or any other provision of this Constitution to the contrary: (1) Taxes shall be levied by valuation uniformly and proportionately upon all real property and franchises as defined by the Legislature except as otherwise provided in or permitted by this Constitution; (2) tangible personal property, as defined by the Legislature, not exempted by this Constitution or by legislation, shall all be taxed at depreciated cost using the same depreciation method with reasonable class lives, as determined by the Legislature, or shall all be taxed by valuation uniformly and proportionately; (3) the Legislature may provide for a different method of taxing motor vehicles and may also establish a separate class of motor vehicles consisting of those owned and held for resale by motor vehicle dealers which shall be taxed in the manner and to the extent provided by the Legislature and may also establish a separate class for trucks, trailers, semitrailers, truck-tractors, or combinations thereof, consisting of those owned by residents and nonresidents of this state, and operating in interstate commerce, and may provide reciprocal and proportionate taxation of such vehicles. The tax proceeds from motor vehicles taxed in each county shall be allocated to the county and the cities, villages, and school districts of such county; (4) the Legislature may provide that agricultural land and horticultural land, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing agricultural land and horticultural land which results in values that are not uniform and proportionate with all other real property and franchises but which results in values that are uniform and proportionate upon all property within the class of agricultural land and horticultural land; (5) the Legislature may enact laws to provide that the value of land actively devoted to agricultural or horticultural use shall for property tax purposes be that value which such land has for agricultural or horticultural use without regard to any value which such land might have for other purposes or uses; (6) the Legislature may prescribe standards and methods for the determination of the value of real property at uniform and proportionate values; (7) in furtherance of the purposes for which such a law of the United States has been adopted, whenever there exists a law of the United States which is intended to protect a specifically designated type, use, user, or owner of property or franchise from discriminatory state or local taxation, such property or franchise shall constitute a separate class of property or franchise under the laws of the State of Nebraska, and such property or franchise may not be taken into consideration in determining whether taxes are levied by valuation uniformly or proportionately upon any property or franchise, and the Legislature may enact laws which statutorily recognize such class and which tax or exempt from taxation such class of property or franchise in such manner as it determines; and (8) the Legislature may provide that livestock shall constitute a separate and distinct class of property for purposes of taxation and may further provide for reciprocal and proportionate taxation of livestock located in this state for only part of a year. Each actual property tax rate levied for a governmental subdivision shall be the same for all classes of taxed property and franchises. Taxes uniform as to class of property or the ownership or use thereof may be levied by valuation or otherwise upon classes of intangible property as the Legislature may determine, and such intangible property held in trust or otherwise for the purpose of funding pension, profit-sharing, or other employee benefit plans as defined by the Legislature may be declared exempt from taxation. Taxes other than property taxes may be authorized by law. Existing revenue laws shall continue in effect until changed by the Legislature.

Source: Neb. Const. art. IX, sec. 1 (1875); Amended 1920, Constitutional Convention, 1919-1920, No. 26; Transferred by Constitutional Convention, 1919-1920, art. VIII, sec. 1; Amended 1952, Laws 1951, c. 160, sec. 1, p. 636; Amended 1954, Laws 1954, Sixty-sixth Extraordinary Session, c. 3, sec. 1, p. 61; Amended 1960, Laws 1959, c. 238, sec. 1, p. 823; Amended 1964, Laws 1963, c. 298, sec. 1, p. 887; Amended 1964, Laws 1963, c. 301, sec. 1, p. 892; Amended 1972, Laws 1972, LB 837, sec. 1; Amended 1978, Laws 1978, First Spec. Sess., LR 1, sec. 1; Amended 1984, Laws 1984, First Spec. Sess., LR 7, sec. 1; Amended 1990, Laws 1989, LR 2, sec. 1; Amended 1992, Laws 1992, LR 219CA, sec. 1; Amended

1998, Laws 1998, LR 45CA, sec. 1. **Note:** The changes made to this section by LR 1 (1978) were found to be unconstitutional in *State ex rel. Douglas v. State Board of Equalization and Assessment*, 205 Neb. 130, 286 N.W.2d 729 (1979).

Annotations: 1. Uniformity 2. Valuation 3. Classification 4. Property taxes 5. Occupation taxes 6. Excise and license taxes 7. Tax on corporate franchises 8. Tax on foreign corporations 9. Special assessments 10. Exemption from taxation 11. Miscellaneous

1. Uniformity

Because subsection (4) of this provision allows for agricultural and horticultural property to be valued in a way that is not uniform and proportionate with all other real property and because statutes have been enacted effectuating this difference, it is unnecessary and improper to equalize the value of nonagricultural, nonhorticultural property with the value of agricultural and horticultural property. *Krings v. Garfield Cty. Bd. of Equal.*, 286 Neb. 352, 835 N.W.2d 750 (2013).

Because the levy authorized under section 77-3442(2)(b) is uniform throughout the entire learning community, which is the relevant taxing district, section 77-3442(2)(b) does not violate the uniformity clause under this provision. *Sarpy Cty. Farm Bureau v. Learning Community*, 283 Neb. 212, 808 N.W.2d 598 (2012).

Because the levy distributed under section 79-1073 is uniform throughout the entire learning community, which is the relevant taxing district, section 79-1073 does not violate the uniformity clause under this provision. *Sarpy Cty. Farm Bureau v. Learning Community*, 283 Neb. 212, 808 N.W.2d 598 (2012).

The object of the uniformity clause is accomplished if all the property within the taxing jurisdiction is assessed and taxed at a uniform standard of value. No difference in the method of determining the valuation or rate of tax to be imposed can be allowed unless separate classifications rest on some reason of public policy or some substantial difference of situation or circumstance that would naturally suggest justice or expediency of diverse legislation with respect to the objects to be classified. Evidence of “sales chasing” may justify differential treatment accorded to a particular county. *County of Douglas v. Nebraska Tax Equal. & Rev. Comm.*, 262 Neb. 578, 635 N.W.2d 413 (2001).

The county violated the Nebraska Constitution’s uniformity clause by its selective imposition of an increased value and assessment of the taxpayer’s property containing mineral interests based solely on the ownership or control of the property. *Lyman-Richey Corp. v. Cass Cty. Bd. of Equal.*, 258 Neb. 1003, 607 N.W.2d 806 (2000); *Ash Grove Cement Co. v. Cass Cty. Bd. of Equal.*, 258 Neb. 990, 607 N.W.2d 810 (2000).

The constitutional requirement of uniformity extends to both rate and valuation. Real property taxes may not be equalized by merely classifying property and then arbitrarily applying a given value to all properties of that classification; the mere fact that a formula is devised, by which property is nonuniformly and disproportionately assessed, does not satisfy the constitutional requirement. The object of the uniformity clause is accomplished if all of the property within a taxing jurisdiction is assessed and taxed at a uniform value; differential tax treatment can only be based on the use or nature of the property, not upon who controls the property. *Constructors, Inc. v. Cass Cty. Bd. of Equal.*, 258 Neb. 866, 606 N.W.2d 786 (2000).

The Class VI school system tax levy set forth in section 79-1078 (formerly section 79-438.13) does not violate this provision requiring uniform taxation. *Swanson v. State*, 249 Neb. 466, 544 N.W.2d 333 (1996).

A taxpayer who seeks a refund of taxes which are claimed to have been invalid as in violation of the constitutional provision requiring uniformity and proportionality in the taxation of tangible property is at most entitled to a refund of the difference between the taxes levied against the property and the taxes if all of the property treated as exempt had been placed on the rolls and taxed. *Trailblazer Pipeline Co. v. Balka*, 246 Neb. 221, 518 N.W.2d 646 (1994).

Real and personal property are in the same class for purposes of uniformity. A statute exempting all but a small sliver of personal property from the property tax rolls is unconstitutional under the uniformity clause because it improperly shifts the property tax burden to real property owners. *Jaksha v. State*, 241 Neb. 106, 486 N.W.2d 858 (1992).

Personal property and real property are both “tangible property” and must be equalized and taxed uniformly pursuant to this provision. *MAPCO Ammonia Pipeline v. State Bd. of Equal.*, 238 Neb. 565, 471 N.W.2d 734 (1991).

It is the function of the county board of equalization to determine the actual value of locally assessed property for tax purposes. In carrying out this function, the county board must give effect to the constitutional requirement that taxes be levied uniformly and proportionately upon all taxable property in the county. Individual discrepancies and inequalities within the county must be corrected and equalized by the county board of equalization. *AT&T Information Sys. v. State Bd. of Equal.*, 237 Neb. 591, 467 N.W.2d 55 (1991).

The taxation of personal property must be uniform not only to the rate of taxation, but to the valuation of property as well. *Xerox Corp. v. Karnes*, 217 Neb. 728, 350 N.W.2d 566 (1984).

The requirement that taxes be assessed uniformly and proportionately does not preclude the result that the property is assessed at less than actual value. *Konicek v. Board of Equalization*, 212 Neb. 648, 324 N.W.2d 815 (1982).

A mobile home as defined in section 60-1601.01 is not a motor vehicle within the exception to the constitutional provision providing for uniform and proportionate taxation of personal property. *Gates v. Howell*, 204 Neb. 256, 282 N.W.2d 22 (1979).

Under this section, the taxation of personal property, except as otherwise authorized herein, must be uniform both as to rate of taxation and valuation of property. *State ex rel. Meyer v. Peters*, 191 Neb. 330, 215 N.W.2d 520 (1974).

Free port law does not violate constitutional provisions for uniformity and against special privileges. *Norden Laboratories, Inc. v. County Board of Equalization*, 189 Neb. 437, 203 N.W.2d 152 (1973).

Harm caused by statute permitting independent hospital district to fractionate territory of counties insufficient to constitute violation of this section. *Shadbolt v. County of Cherry*, 185 Neb. 208, 174 N.W.2d 733 (1970).

It is the duty of the State Board of Equalization and Assessment to give effect to the requirement that all taxes be levied uniformly and proportionately upon all tangible property. *Hanna v. State Board of Equalization & Assessment*, 181 Neb. 725, 150 N.W.2d 878 (1967).

The Constitution requires taxes on all tangible property to be levied by valuation, uniformly and proportionately. *H/K Company v. Board of Equalization*, 175 Neb. 268, 121 N.W.2d 382 (1963).

Tax upon motor vehicle dealers violated rule of uniformity as to class and was unconstitutional. *State ex rel. Meyer v. Story*, 173 Neb. 741, 114 N.W.2d 769 (1962).

Rule of uniformity applies to valuation of railroad property. *Union P. R. R. Co. v. State Bd. of Equal & Assess.*, 170 Neb. 139, 101 N.W.2d 892 (1960); *Chicago & N. W. Ry. Co. v. State Bd. of Equal. & Assess.*, 170 Neb. 106, 101 N.W.2d 873 (1960); *Chicago, B. & Q. R. R. Co. v. State Bd. of Equal. & Assess.*, 170 Neb. 77, 101 N.W.2d 856 (1960).

Taxes are required to be levied by valuation uniformly and proportionately upon all tangible property. *United States Cold Storage Corp. v. Stolinski*, 168 Neb. 513, 96 N.W.2d 408 (1959).

Taxes on tangible property must be levied by valuation uniformly and proportionately. *K-K Appliance Co. v. Board of Equalization*, 165 Neb. 547, 86 N.W.2d 381 (1957).

Substantial compliance as to value and uniformity is all that is required. *LeDioyt v. County of Keith*, 161 Neb. 615, 74 N.W.2d 455 (1956).

Uniformity as to class is required of tax on intangible property. *Omaha Nat. Bank v. Heintze*, 159 Neb. 520, 67 N.W.2d 753 (1954).

One of objectives is to secure a uniform and proportionate valuation. *County of Buffalo v. State Board of Equalization & Assessment*, 158 Neb. 353, 63 N.W.2d 468 (1954).

Uniform and proportionate valuation of farm lands is required. *Laflin v. State Board of Equalization and Assessment*, 156 Neb. 427, 56 N.W.2d 469 (1953).

Blanket Mill Tax Levy Act did not operate uniformly and proportionately, and was unconstitutional. *Peterson v. Hancock*, 155 Neb. 801, 54 N.W.2d 85 (1952).

Tax Appraisal Board Act did not change uniformity requirements as to taxation of property and therefore did not violate this section. *Midwest Popcorn Co. v. Johnson*, 152 Neb. 867, 43 N.W.2d 174 (1950).

Taxes must be levied by valuation uniformly and proportionately upon all tangible property, and providing different method for fixing the actual value of real estate than that prescribed for other tangible property violates this section. *Homan v. Board of Equalization*, 141 Neb. 400, 3 N.W.2d 650 (1942).

Act imposing annual tax on fire insurance companies based on gross premium receipts collected on policies of fire insurance on property located within corporate limits of cities or villages did not violate constitutional requirements of equality and uniformity. *Continental Ins. Co. v. Smrha*, 131 Neb. 791, 270 N.W. 122 (1936).

State authorizing tax levy on stock of banks was invalid as violating rule of uniformity as to class. *State ex rel. Spillman v. Ord State Bank*, 117 Neb. 189, 220 N.W. 265 (1928); *Central Nat. Bank of Lincoln v. Sutherland*, 113 Neb. 126, 202 N.W. 428 (1925); *State Bank of Omaha v. Endres*, 109 Neb. 753, 192 N.W. 322 (1923).

Assessment reasonably uniform and proportionate on all classes of property will not be set aside because all property is not assessed at actual value. *Chicago, R. I & P. Ry. Co. v. State*, 111 Neb. 362, 197 N.W. 114 (1923).

Rule of uniformity, applied to taxation of mortgages and of shares of stock in domestic corporations, inhibits discrimination between taxpayers in any manner. *City Trust Co. of Omaha v. Douglas County*, 101 Neb. 792, 165 N.W. 155 (1917).

Uniformity and equality in value of property of individuals and corporations is required. *State ex rel. Breckenridge v. Fleming*, 70 Neb. 529, 97 N.W. 1063 (1903).

Requirement of uniformity is accomplished if all the property within the taxing jurisdiction is assessed at uniform standard of value as compared with actual market value. *State ex rel. Bee Building Co. v. Savage*, 65 Neb. 714, 91 N.W. 716 (1902).

This provision is command to Legislature to so enact laws that every person shall pay tax in proportion to value of his property. *Scott v. Flowers*, 60 Neb. 675, 84 N.W. 81 (1900); *State ex rel. Sioux County v. Tucker*, 38 Neb. 56, 56 N.W. 718 (1893).

Uniformity is satisfied if observed by each jurisdiction imposing tax. *State ex rel. Young v. Osborn*, 60 Neb. 415, 83 N.W. 357 (1900).

This section requires that both valuation of property and rate of levy be uniform in taxing district. *High School District No. 137, Havelock v. Lancaster County*, 60 Neb. 147, 82 N.W. 380 (1900); *State ex rel. Ahern v. Walsh*, 31 Neb. 469, 48 N.W. 263 (1891).

There must be uniformity as to persons or property within district for which tax is imposed. *Clother v. Maher*, 15 Neb. 1, 16 N.W. 902 (1883).

This provision and section 77-1501, read together, require a county board of equalization to ultimately value comparable properties similarly, even where separate protests are heard in the first instance by referees who recommend greatly disparate property valuations. *Zabawa v. Douglas Cty. Bd. of Equal.*, 17 Neb. App. 221, 757 N.W.2d 522 (2008).

This provision requires uniform and proportionate assessment within the class of agricultural land; agricultural land is then divided into categories such as irrigated cropland, dry cropland, and grassland. *Schmidt v. Thayer Cty. Bd. of Equal.*, 10 Neb. App. 10, 624 N.W.2d 63 (2001).

2. Valuation

If the State Board of Equalization and Assessment arbitrarily undervalues a particular class of centrally assessed property, so that another class of such property is valued disproportionately higher, the valuation of the latter class of property must be lowered so that it will be equalized with the other property. *Natural Gas Pipeline Co. v. State Bd. of Equal.*, 237 Neb. 357, 466 N.W.2d 461 (1991).

This section requires that taxes upon tangible property shall be levied by valuation uniformly and proportionately. *Lincoln Tel. & Tel. Co. v. County Board of Equalization*, 209 Neb. 465, 308 N.W.2d 515 (1981).

Act which fixed value of agricultural income-producing machinery and equipment as those used by taxpayer in determining federal income tax violated this section. *State ex rel. Meyer v. McNeil*, 185 Neb. 586, 177 N.W.2d 596 (1970).

Legislature may prescribe standards and methods of determining value of tangible property for taxation. *Carpenter v. State Board of Equalization & Assessment*, 178 Neb. 611, 134 N.W.2d 272 (1965).

Assessment of too high a tax does not make it void, and taxpayer should first apply to Board of Equalization for relief. *Power v. Jones*, 126 Neb. 529, 253 N.W. 867 (1934).

Legislature may tax intangible property by valuation, uniformly, and without proportionate rates. *Sommerville v. Board of County Comrs.*, 116 Neb. 282, 216 N.W. 815 (1927), affirmed on rehearing, 117 Neb. 507, 221 N.W. 433 (1928).

Legislature may fix basis of valuation for taxation. *Beadle v. Sanders*, 104 Neb. 427, 177 N.W. 789 (1920).

Constitutional provision for levying tax by valuation is not self-executing, and requires legislation to carry it into effect. Failure to provide method of valuing life insurance policies prevents their taxation. *Laub v. Furnas County*, 104 Neb. 402, 177 N.W. 749 (1920).

Taxpayer whose property alone is taxed at actual value is entitled to have his assessment reduced to the percentage of that value at which others are taxed. *Sioux City Bridge Co. v. Dakota County*, 260 U.S. 441 (1923).

3. Classification

A legislative classification must operate uniformly on all within a class which is reasonable. *Natural Gas Pipeline Co. v. State Bd. of Equal.*, 237 Neb. 357, 466 N.W.2d 461 (1991).

The Legislature may, for the purpose of legislating, classify persons, places, objects, or subjects, but such classification must rest upon some difference in situation or circumstance which, in reason, calls for distinctive legislation for the class. *Natural Gas Pipeline Co. v. State Bd. of Equal.*, 237 Neb. 357, 466 N.W.2d 461 (1991).

Constitution flatly contradicts conclusion that real property taxes may be equalized if property classified in same values applied to same classifications. *County of Gage v. State Board of Equalization & Assessment*, 185 Neb. 749, 178 N.W.2d 759 (1970).

This section does not prohibit a graduated state income tax and specifically provides authorization for taxes other than property tax. *Anderson v. Tiemann*, 182 Neb. 393, 155 N.W.2d 322 (1967).

Business inventories and real estate are in the same class for purpose of taxation. *Grainger Bros. Co. v. Board of Equalization*, 180 Neb. 571, 144 N.W.2d 161 (1966).

Taxation on valuation of the capital stock of corporations is required to be uniform as to class. *First Nat. Bank & Trust Co. of Lincoln v. County of Lancaster*, 177 Neb. 390, 128 N.W.2d 820 (1964).

In classifying intangible property for taxation, there must be uniformity as to class. *First Continental Nat. Bank & Trust Co. v. Davis*, 172 Neb. 118, 108 N.W.2d 638 (1961).

Constitution recognizes that villages and cities are separate and distinct. *Hueftle v. Eustis Cemetery Assn.*, 171 Neb. 293, 106 N.W.2d 400 (1960).

Separate listing and assessing of motor vehicles is authorized. *Peterson v. Hancock*, 166 Neb. 637, 90 N.W.2d 298 (1958).

Motor vehicles could be taxed as a separate class of tangible property. *Boyd Motor Co. v. County of Box Butte*, 159 Neb. 514, 67 N.W.2d 774 (1954).

State board was not required to treat ranch land as a separate class of property. *County of Grant v. State Board of Equalization & Assessment*, 158 Neb. 310, 63 N.W.2d 459 (1954).

Grain on hand in elevator was taxable in same manner as other tangible personal property. *State v. T. W. Jones Grain Co.*, 156 Neb. 822, 58 N.W.2d 212 (1953).

Purpose of 1920 amendment was to provide for a separate classification of intangibles in order that this class of property might be dealt with separately, brought out of hiding and placed on the tax rolls. *International Harvester Co. v. County of Douglas*, 146 Neb. 555, 20 N.W.2d 620 (1945).

Legislature cannot define and tax as tangible property that which actually is intangible property. *Moeller, McPherrin & Judd v. Smith*, 127 Neb. 424, 255 N.W. 551 (1934).

Power of classification rests with the Legislature, and courts will not interfere therewith unless classification is artificial and baseless. *Cunningham v. Douglas County*, 104 Neb. 405, 177 N.W. 742 (1920).

Classification of persons dealing in grain as “grain brokers” for purpose of assessment and taxation, and taxing of “average capital” is not unconstitutional. *Central Granaries Co. v. Lancaster County*, 77 Neb. 319, 113 N.W. 199 (1907).

Different classes of property may be listed and valued by different modes and agencies. *Western Union Telegraph Co. v. City of Omaha*, 73 Neb. 527, 103 N.W. 84 (1905).

4. Property taxes

Raising of necessary revenue by taxation is one of duties of county board of equalization. *Speer v. Kratzenstein*, 143 Neb. 310, 12 N.W.2d 360 (1943).

Constitution permits mortgage interest in land to be taxed. *Grand Lodge, Degree of Honor, A.O.U.W. of Nebraska v. Sarpy County*, 99 Neb. 647, 157 N.W. 344 (1916).

Credits are by Constitution “property” and as such are to be taxed. *Lancaster County v. McDonald*, 73 Neb. 453, 103 N.W. 78 (1905).

Tax upon capital stock of corporation is in effect tax upon property and assets of company. *State ex rel. Bee Building Co. v. Savage*, 65 Neb. 714, 91 N.W. 716 (1902).

5. Occupation taxes

Occupation taxes on corporations are authorized by this section. *Licking v. Hayes Lumber Co.*, 146 Neb. 240, 19 N.W.2d 148 (1945).

Power to levy excise tax for use of highways was delegated by the people to the Legislature. *Rocky Mountain Lines v. Cochran*, 140 Neb. 378, 299 N.W. 596 (1941).

Occupation tax upon light, heat and power companies, without sufficient basis for classification, is void as discriminatory. *City of Lincoln v. Lincoln Gas & Elec. Light Co.*, 100 Neb. 182, 158 N.W. 962 (1916).

Occupation tax may be levied upon the privilege of transacting the business of telegraphy within a city. *City of Grand Island v. Postal Telegraph Cable Co.*, 92 Neb. 253, 138 N.W. 169 (1912).

Enumeration of occupations which may be taxed does not exclude other like enumerations. *Mercantile Incorporating Co. v. Junkin*, 85 Neb. 561, 123 N.W. 1055 (1909).

Occupation tax of five per cent of earnings of street railway company for municipal purposes was sustained. *Lincoln Traction Co. v. City of Lincoln*, 84 Neb. 327, 121 N.W. 435 (1909).

Constitution permits classification of occupations but imposition of taxes for persons of each class must be uniform. *Rosenbloom v. State*, 64 Neb. 342, 89 N.W. 1053 (1902).

Enumeration of business upon which occupation or license tax may be imposed does not limit such tax to business named. *City of York v. Chicago, B. & Q. R. Co.*, 56 Neb. 572, 76 N.W. 1065 (1898).

This section does not deprive cities of power, under general law, of imposing occupation tax for municipal purposes. *City of York v. Chicago, B. & Q. R. Co.*, 56 Neb. 572, 76 N.W. 1065 (1898); *Templeton v. City of Tekamah*, 32 Neb. 542, 49 N.W. 373 (1891); *Magneau v. Fremont*, 30 Neb. 843, 47 N.W. 280 (1890).

6. Excise and license taxes

The requirement of this provision that all taxes must be levied by valuation upon all tangible property and franchises, does not apply to excise taxes. *State v. Garza*, 242 Neb. 573, 496 N.W.2d 448 (1993).

Per head tax on cattle sold was an excise tax, not a property tax, and as such was not required to be levied by valuation uniformly and proportionately. *State v. Galyen*, 221 Neb. 497, 378 N.W.2d 182 (1985).

The imposition of an excise tax need not be uniform and proportionate but may be imposed upon each transaction. *State v. Galyen*, 221 Neb. 497, 378 N.W.2d 182 (1985).

Act imposing excise tax on imitation butter was not uniform upon all members of the class. *Thorin v. Burke*, 146 Neb. 94, 18 N.W.2d 664 (1945).

A tax on gross premiums of foreign insurance companies is not a tax on property but an excise tax on the privilege of doing business in this state. *State ex rel. Smrha v. General American Life Ins. Co.*, 132 Neb. 520, 272 N.W. 555 (1937).

Statute providing for license fee on sale of tobacco and cigarettes was not a revenue measure under this section, and was constitutional. *Nash-Finch Co. v. Beal*, 124 Neb. 835, 248 N.W. 374 (1933).

Gasoline tax is excise tax and power to levy same is granted by this section. *Pantorium v. McLaughlin*, 116 Neb. 61, 215 N.W. 798 (1927).

Oil inspection fees, in excess of expense of enforcement, are invalid hereunder. *Century Oil Co. v. Department of Agriculture*, 110 Neb. 100, 192 N.W. 958 (1923); *State v. Standard Oil Co.*, 100 Neb. 826, 161 N.W. 537 (1917).

Gross receipts of corporation may be taxed as license to do business but not as property tax. *Western Union Telegraph Co. v. City of Omaha*, 73 Neb. 527, 103 N.W. 84 (1905).

7. Tax on corporate franchises

Taxes on corporate franchises must be by valuation and in proportion to value. *Western Union Telegraph Co. v. City of Omaha*, 73 Neb. 527, 103 N.W. 84 (1905).

Corporate franchises are regarded as property and must be valued and taxed as such. *State ex rel. Breckenridge v. Fleming*, 70 Neb. 523, 97 N.W. 1063 (1903).

In computing value of corporate franchise, corporate indebtedness should not be deducted. *State ex rel. Shriver v. Karr*, 64 Neb. 514, 90 N.W. 298 (1902).

8. Tax on foreign corporations

Tax on shares of stock of foreign corporation was constitutional. *Rehkopf v. Board of Equalization*, 180 Neb. 90, 141 N.W.2d 462 (1966).

Foreign insurance companies may be treated as single class and taxed at different rate from domestic companies, but no discrimination should be made in taxes on their property within state. *Aachen & Munich Fire Insurance Co. v. City of Omaha*, 72 Neb. 518, 101 N.W. 3 (1904).

This section does not prevent Legislature from imposing tax, in nature of license or occupation tax, upon foreign corporations regardless of property valuation. *State v. Insurance Co. of North America*, 71 Neb. 320, 99 N.W. 36 (1904).

demurrer sustained 71 Neb. 335, 100 N.W. 405 (1904), rehearing denied 71 Neb. 341, 102 N.W. 1022 (1905), judgment sustained 71 Neb. 348, 106 N.W. 767 (1906); State ex rel. Breckenridge v. Fleming, 70 Neb. 523, 97 N.W. 1063 (1903).

9. Special assessments

An act of Legislature which exempts a railroad company from payment of special assessments on benefits received but does not exempt it from payment of any general tax does not contravene the Constitution. *Hinman v. Temple*, 133 Neb. 268, 274 N.W. 605 (1937).

This section has no application to assessments levied for local improvements. *Erickson v. Nine Mile Irr. Dist.*, 109 Neb. 189, 190 N.W. 573 (1922).

This section relates to revenue for general state and municipal government only, and has no application to taxes or assessments for local improvements such as irrigation works. *Bd. of Directors of Alfalfa Irr. Dist. v. Collins*, 46 Neb. 411, 64 N.W. 1086 (1895).

10. Exemption from taxation

The partial exemption from taxation of classes of property specified in section 77-202.25, is not unreasonable, objectionable as discriminatory, or violative hereof. *Stahmer v. State*, 192 Neb. 63, 218 N.W.2d 893 (1974).

Revenue from sale of water and gas by metropolitan utilities district not taxes. *Evans v. Metropolitan Utilities Dist.*, 187 Neb. 261, 188 N.W.2d 851 (1971).

Lessee's interest in housing project located on federal air base was taxable. *Offutt Housing Co. v. County of Sarpy*, 160 Neb. 320, 70 N.W.2d 382 (1955).

Housing authority created by statute for slum clearance is a governmental subdivision and, as such, exempt from taxation. *Lennox v. Housing Authority of City of Omaha*, 137 Neb. 582, 290 N.W. 451 (1940).

Legislature cannot release any corporation from payment of its proportion of taxes. *State ex rel. Cornell v. Poynter*, 59 Neb. 417, 81 N.W. 431 (1899).

11. Miscellaneous

Sections 77-132 and 77-1359 do not violate this provision. *Agena v. Lancaster Cty. Bd. of Equal.*, 276 Neb. 851, 758 N.W.2d 363 (2008).

This provision and section 6 provide that the Legislature can empower a city to tax, but Article XI authorizes a city with a limitation of powers home rule charter to exercise that power to tax without first waiting for express delegation. *Home Builders Assn. v. City of Lincoln*, 271 Neb. 353, 711 N.W.2d 871 (2006).

This provision gives the Legislature two options with respect to tangible personal property: To tax the property on a depreciated cost basis using the same depreciation method with reasonable class lives or to tax all such property uniformly and proportionately. *Pfizer Inc. v. Lancaster Cty. Bd. of Equal.*, 260 Neb. 265, 616 N.W.2d 326 (2000).

The proposed amendment to Article VIII, § 1 of the Nebraska Constitution adopted by the Legislature in Special Session in 1978 (LR 1) violates the equal protection clause of the 14th Amendment to the U.S. Constitution by creating nonuniform taxation and violates the due process clause of the 14th Amendment by failing to provide taxpayers with notice and an opportunity to be heard. It is therefore void. *State ex rel. Douglas v. State Board of Equalization and Assessment*, 205 Neb. 130, 286 N.W.2d 729 (1979).

Requiring registration of mobile homes and assessing a reasonable fee to defray cost of registration and inspection, if any, does not violate constitutional provision requiring uniform and proportionate taxation of personal property. *Gates v. Howell*, 204 Neb. 256, 282 N.W.2d 22 (1979).

The levying of taxes for accumulation of funds is within the constitutional provision that "necessary revenue" of the state and its governmental subdivisions be raised by taxation in such manner as the Legislature might direct. *Banks v. Board of Education of Chase County*, 202 Neb. 717, 277 N.W.2d 76 (1979).

Colonies of honey bees which were not in existence on January 1, which are brought into Nebraska from another state before July 1, are not subject to assessment in Nebraska where their progenitors were taxed for that year in another state. *Knoefler Honey Farms v. County of Sherman*, 196 Neb. 435, 243 N.W.2d 760 (1976).

Act establishing Court of Industrial Relations does not violate any constitutional provision and the standards for its guidance are adequate. *Orleans Education Assn. v. School Dist. of Orleans*, 193 Neb. 675, 229 N.W.2d 172 (1975).

L.B. 1003, Eighty-second Legislature, First Session, sections 23-2601 to 23-2612 does not contravene this section. *Dwyer v. Omaha-Douglas Public Building Commission*, 188 Neb. 30, 195 N.W.2d 236 (1972).

The formula set out in sections 79-486 and 79-4,102 for determining rates for nonresident tuition does not violate sections 1 or 4 of this Article. *Mann v. Wayne County Board of Equalization*, 186 Neb. 752, 186 N.W.2d 729 (1971).

Act which fixed value of agricultural income-producing machinery and equipment as those used by taxpayer in determining federal income tax violated this section. *State ex rel. Meyer v. McNeil*, 185 Neb. 586, 177 N.W.2d 596 (1970).

Harm caused by statute permitting independent hospital district to fractionate territory of counties insufficient to constitute violation of this section. *Shadbolt v. County of Cherry*, 185 Neb. 208, 174 N.W.2d 733 (1970).

Act authorizing appointed members of school board to levy a tax of not exceeding two mills and to certify the same directly to county treasurer for collection does not constitute an unconstitutional delegation of the legislative power of taxation. *Campbell v. Area Vocational Technical School No. 2*, 183 Neb. 318, 159 N.W.2d 817 (1968).

This section does not prohibit a graduated state income tax and specifically provides authorization for taxes other than property tax. *Anderson v. Tiemann*, 182 Neb. 393, 155 N.W.2d 322 (1967).

Airport Authority Act did not violate this section. *Obitz v. Airport Authority of City of Red Cloud*, 181 Neb. 410, 149 N.W.2d 105 (1967).

Amount deducted from salary of state employee for retirement fund is not a tax within the meaning of this section. *Gossman v. State Employees Retirement System*, 177 Neb. 326, 129 N.W.2d 97 (1964).

Amendment to Constitution in 1920 provided for a different method of taxing intangibles. *Stephenson School Supply Co. v. County of Lancaster*, 172 Neb. 453, 110 N.W.2d 41 (1961).

This section has no application to the imposition of a penalty for failure to return property for taxation. *Creigh v. Larsen*, 171 Neb. 317, 106 N.W.2d 187 (1960).

Tax on motor vehicles should be allocated in the same proportion that levy of each political subdivision bears to total levy for all political subdivisions in which motor vehicle has a taxable situs. *State ex rel. School Dist. of Scottsbluff v. Ellis*, 168 Neb. 166, 95 N.W.2d 538 (1959).

The Legislature may prescribe standards for determination of actual value. *S. S. Kresge Co. v. Jensen*, 164 Neb. 833, 83 N.W.2d 569 (1957).

Payment of general taxes for school purposes may not operate, directly or indirectly, to secure immunity from the payment of state or county taxes, in whole or in part. *Schulz v. Dixon County*, 134 Neb. 549, 279 N.W. 179 (1938), overruling *Schmidt v. Saline County*, 122 Neb. 56, 239 N.W. 203 (1931).

Act of Legislature waiving penalty for nonpayment of taxes is not forbidden by Constitution. *Tukey v. Douglas County*, 133 Neb. 732, 277 N.W. 57 (1938).

Act providing for payment of delinquent taxes in installments did not violate provisions of this section. *Steinacher v. Swanson*, 131 Neb. 439, 268 N.W. 317 (1936).

Party invoking statute may not raise question of its constitutionality. *Sommerville v. Board of County Comrs. of Douglas County*, 116 Neb. 282, 216 N.W. 815 (1927).

Regarded as a tax, provision imposing three hundred dollars assessment against building enjoined as liquor nuisance was in conflict with this section. *State ex rel. McGuire v. Macfarland*, 104 Neb. 42, 175 N.W. 663 (1919).

This section has no application to statute authorizing levy for university campus extension, as same relates to "corporate purposes" of municipality. *Sinclair v. City of Lincoln*, 101 Neb. 163, 162 N.W. 488 (1917).

Enumeration of subjects of taxation is not exclusive. Legislature has power to provide for taxation upon inheritances. *In re Estate of Sanford*, 90 Neb. 410, 133 N.W. 870 (1911).

Credits of a nonresident partnership engaged in business in Nebraska are subject to taxation. *Clay, Robinson & Co. v. Douglas County*, 88 Neb. 363, 129 N.W. 548 (1911).

Inheritance tax law sustained as tax upon right of succession of property and not tax upon property of estate. *State ex rel. Slabaugh v. Vinsonhaler*, 74 Neb. 675, 105 N.W. 472 (1905).

Word "property" includes all intangible property of whatever description including franchise, and all physical or tangible property, and same must be assessed at uniform value. *State ex rel. Bee Building Co. v. Savage*, 65 Neb. 714, 91 N.W. 716 (1902).

"Cedar Rust" law does not violate this section, as charging owner of infected trees with cost of destruction is not a tax, but an incident to practical accomplishment of police power compelling him to abate a nuisance. *Upton v. Felton*, 4 F.Supp. 585 (D. Neb. 1932).

VIII-1A. Levy of property tax for state purposes; prohibition.

The state shall be prohibited from levying a property tax for state purposes.

Source: Neb. Const. art. VIII, sec. 1A (1954); Adopted 1954, Laws 1954, Sixty-sixth Extraordinary Session, c. 5, sec. 1, p. 65; Amended 1966, Initiative Measure No. 301.

Annotations: 1. Not unconstitutional 2. Unconstitutional 3. Miscellaneous

1. Not unconstitutional

Section 77-3442(2)(b) was enacted for substantially local purposes, and therefore it does not violate the prohibition under this provision against a property tax for a state purpose. *Sarpy Cty. Farm Bureau v. Learning Community*, 283 Neb. 212, 808 N.W.2d 598 (2012).

Section 79-1073 was enacted for substantially local purposes, and therefore, it does not violate the prohibition under this provision against a property tax for a state purpose. *Sarpy Cty. Farm Bureau v. Learning Community*, 283 Neb. 212, 808 N.W.2d 598 (2012).

The Class VI school system tax levy set forth in section 79-1078 (formerly section 79-438.13) is not a levy for state purposes and therefore does not violate this provision. *Swanson v. State*, 249 Neb. 466, 544 N.W.2d 333 (1996).

Chapter 79, article 26, the Technical Community College Area Act, is not in violation of this provision of the Constitution. *State ex rel. Western Technical Com. Col. Area v. Tallon*, 196 Neb. 603, 244 N.W.2d 183 (1976).

Statutory provisions requiring counties to pay cost of maintaining a county court, prosecuting criminal law violations, and conducting state and national elections do not contravene the constitutional provision which prohibits property tax by state. *State ex rel. Meyer v. County of Banner*, 196 Neb. 565, 244 N.W.2d 179 (1976).

Statute authorizing or requiring a local subdivision to levy a property tax for local fire protection purposes does not contravene this section. *R-R Realty Co. v. Metropolitan Utilities Dist.*, 184 Neb. 237, 166 N.W.2d 746 (1969).

County levies to support institutional patients in state facilities not violative of this section. *Craig v. Board of Equalization of Douglas County*, 183 Neb. 779, 164 N.W.2d 445 (1969).

2. Unconstitutional

A property tax in furtherance of compliance with an interstate compact is, for purposes of analysis under this provision, a property tax levied by the State for state purposes. *Garey v. Nebraska Dept. of Nat. Resources*, 277 Neb. 149, 759 N.W.2d 919 (2009).

Section 2-3225(1)(d) violates the prohibition against levying a property tax for state purposes found in this provision and is therefore unconstitutional. *Garey v. Nebraska Dept. of Nat. Resources*, 277 Neb. 149, 759 N.W.2d 919 (2009).

Where the state assumes control and the primary burden of financial support of a statewide system under provisions of the Nebraska Technical Community College Act, the property tax under section 79-2626 is for a state purpose under this Article. *State ex rel. Western Nebraska Technical Com. Col. Area v. Tallon*, 192 Neb. 201, 219 N.W.2d 454 (1974).

3. Miscellaneous

Where state and local purposes are commingled, the crucial issue turns upon a determination of whether the controlling purposes are state or local. Counties may be required to pay attorney's fees for one appointed to defend an indigent defendant. *Kovarik v. County of Banner*, 192 Neb. 816, 224 N.W.2d 761 (1975).

VIII-1B. Income tax; may be based upon the laws of the United States.

When an income tax is adopted by the Legislature, the Legislature may adopt an income tax law based upon the laws of the United States.

Source: Neb. Const. art. VIII, sec. 1B (1966); Adopted 1966, Laws 1965, c. 292, sec. 1, p. 833.

Annotations:

The Legislature has authority to enact state income tax laws which incorporate future income tax laws of the United States. *Anderson v. Tiemann*, 182 Neb. 393, 155 N.W.2d 322 (1967).

VIII-2. Exemption of property from taxation; classification.

Notwithstanding Article I, section 16, Article III, section 18, or Article VIII, section 1 or 4, of this Constitution or any other provision of this Constitution to the contrary: (1) The property of the state and its governmental subdivisions shall constitute a separate class of property and shall be exempt from taxation to the extent such

property is used by the state or governmental subdivision for public purposes authorized to the state or governmental subdivision by this Constitution or the Legislature. To the extent such property is not used for the authorized public purposes, the Legislature may classify such property, exempt such classes, and impose or authorize some or all of such property to be subject to property taxes or payments in lieu of property taxes except as provided by law; (2) the Legislature by general law may classify and exempt from taxation property owned by and used exclusively for agricultural and horticultural societies and property owned and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not owned or used for financial gain or profit to either the owner or user; (3) household goods and personal effects, as defined by law, may be exempted from taxation in whole or in part, as may be provided by general law, and the Legislature may prescribe a formula for the determination of value of household goods and personal effects; (4) the Legislature by general law may provide that the increased value of land by reason of shade or ornamental trees planted along the highway shall not be taken into account in the assessment of such land; (5) the Legislature, by general law and upon any terms, conditions, and restrictions it prescribes, may provide that the increased value of real property resulting from improvements designed primarily for energy conservation may be exempt from taxation; (6) the value of a home substantially contributed by the United States Department of Veterans Affairs for a paraplegic veteran or multiple amputee shall be exempt from taxation during the life of such veteran or until the death or remarriage of his or her surviving spouse; (7) the Legislature may exempt from an intangible property tax life insurance and life insurance annuity contracts and any payment connected therewith and any right to pension or retirement payments; (8) the Legislature may exempt inventory from taxation; (9) the Legislature may define and classify personal property in such manner as it sees fit, whether by type, use, user, or owner, and may exempt any such class or classes of property from taxation if such exemption is reasonable or may exempt all personal property from taxation; (10) no property shall be exempt from taxation except as permitted by or as provided in this Constitution; (11) the Legislature may by general law provide that a portion of the value of any residence actually occupied as a homestead by any classification of owners as determined by the Legislature shall be exempt from taxation; and (12) the Legislature may by general law, and upon any terms, conditions, and restrictions it prescribes, provide that the increased value of real property resulting from improvements designed primarily for the purpose of renovating, rehabilitating, or preserving historically significant real property may be, in whole or in part, exempt from taxation.

Source: Neb. Const. art. IX, sec. 2 (1875); Amended 1920, Constitutional Convention, 1919-1920, No. 27; Transferred by Constitutional Convention, 1919-1920, art. VIII, sec. 2; Amended 1954, Laws 1954, Sixty-sixth Extraordinary Session, c. 4, sec. 1, p. 63; Amended 1964, Laws 1963, c. 300, sec. 1, p. 890; Amended 1966, Laws 1965, c. 303, sec. 1, p. 854; Amended 1968, Laws 1967, c. 318, sec. 1, p. 850; Amended 1970, Laws 1969, c. 425, sec. 1, p. 1443; Amended 1980, Laws 1980, LB 740, sec. 1; Amended 1992, Laws 1992, LR 219CA, sec. 1; Amended 1998, Laws 1998, LR 45CA, sec. 3; Amended 2004, Laws 2003, LR 2CA, sec. 1.

Annotations: 1. Governmental subdivision property 2. Educational property 3. Religious or charitable purposes 4. Household goods and personal effects 5. Miscellaneous

1. Governmental subdivision property

This provision must defer to article VIII, section 11, and its limitation on the Legislature's ability to tax the public property of political subdivisions governed by article VIII, section 11. *Conroy v. Keith Cty. Bd. of Equal.*, 288 Neb. 196, 846 N.W.2d 634 (2014).

The statutes governing airports were not expressly or impliedly repealed by the passage of the 1998 constitutional amendment to this provision or subsection (1)(a) of section 77-202. Airports owned and operated by municipalities are exempt from taxation. *City of York v. York Cty. Bd. of Equal.*, 266 Neb. 297, 664 N.W.2d 445 (2003).

Real property acquired by the city through enforcement of special assessment liens and offered for sale to the public at a price which does not exceed the delinquent special assessments and accrued interest is property that is used for a public purpose, and is therefore exempt from real estate taxation. *City of Alliance v. Box Butte Cty. Bd. of Equal.*, 265 Neb. 262, 656 N.W.2d 439 (2003).

Under facts in this case improvements on Missouri River port and terminal area held to be owned by City of Omaha and not taxable. *Sioux City & New Orleans Barge Lines, Inc. v. Board of Equalization*, 186 Neb. 690, 185 N.W.2d 866 (1971).

Taxing open accounts due from school district is not a tax upon a governmental subdivision of the state. *Stephenson School Supply Co. v. County of Lancaster*, 172 Neb. 453, 110 N.W.2d 41 (1961).

Public corporation is not subject to taxation outside of scope of prohibition of this section unless power to tax is expressly conferred by Legislature. *Consumers Public Power Dist. v. City of Lincoln*, 168 Neb. 183, 95 N.W.2d 357 (1959).

A public power district is a governmental subdivision of the state. *United Community Services v. Omaha Nat. Bank*, 162 Neb. 786, 77 N.W.2d 576 (1956).

Leasehold of housing corporation was not exempt from taxation. *Offutt Housing Co. v. County of Sarpy*, 160 Neb. 320, 70 N.W.2d 382 (1955).

Where school district acquired title to land before date taxes were levied, land was exempt from taxation. *Madison County v. School Dist. No. 2 of Madison County*, 148 Neb. 218, 27 N.W.2d 172 (1947).

Rightful ownership of property by a governmental subdivision is all that is required or necessary to extend to such property complete exemption and immunity from assessment and taxation. *Platte Valley Public Power & Irr. Dist. v. County of Lincoln*, 144 Neb. 584, 14 N.W.2d 202 (1944).

Dredge used by contractors in excavation of reservoir for public power and irrigation district, under conditional sale contract whereby contractors eventually become the owners, was not exempt from taxation. *Minneapolis Dredging Co. v. Reikat*, 141 Neb. 470, 3 N.W.2d 889 (1942).

Housing authority created by statute for slum clearance is a governmental subdivision and, as such, is exempt from taxation. *Lennox v. Housing Authority of City of Omaha*, 137 Neb. 582, 290 N.W. 451 (1940).

Nebraska State Board of Agriculture is not a governmental agency and its property is not exempt from taxation as such. *Crete Mills v. Nebraska State Board of Agriculture*, 132 Neb. 244, 271 N.W. 684 (1937).

Tax on shares of stock of bank was required to be paid, even though bank was insolvent and in hands of receiver. *Farmers State Bank of Belden v. Nelson*, 116 Neb. 541, 218 N.W. 393 (1928).

City warrants are exempt as property or instrumentality of government of subdivision of state, though owned by private citizen. *Droll v. Furnas County*, 108 Neb. 85, 187 N.W. 876 (1922).

Municipal water plant which supplies water to inhabitants of city is exempt from general state and county taxes. *City of Omaha v. Douglas County*, 96 Neb. 865, 148 N.W. 938 (1914).

Municipal or other public property is not exempt from assessments for local improvements. *Herman v. City of Omaha*, 75 Neb. 489, 106 N.W. 593 (1906).

2. Educational property

Houses used by college for rental to faculty members were not exempt from taxation. *Doane College v. County of Saline*, 173 Neb. 8, 112 N.W.2d 248 (1961).

Property of college fraternity was not exempt from taxation. *Iota Benefit Assn. v. County of Douglas*, 165 Neb. 330, 85 N.W.2d 726 (1957).

Farm and dairy property used by college for school purposes was not taxable. *Central Union Conference Assn. of College View v. Lancaster County*, 109 Neb. 106, 189 N.W. 982 (1922).

Business colleges, in which common school education is given, are entitled to exemption of that portion of their property so used. *Rohrbough v. Douglas County*, 76 Neb. 679, 107 N.W. 1000 (1906).

3. Religious or charitable purposes

This section, providing for tax exemption of certain property, is not self-executing, but requires action by the Legislature to carry such constitutional provision into effect. *Indian Hills Comm. Ch. v. County Bd. of Equal.*, 226 Neb. 510, 412 N.W.2d 459 (1987).

Where a nursing home's association with two other companies did not result in financial gain or profit to either the owner or user, and the primary or dominant use of the nursing home continued to be for religious or charitable purposes, the property remains exempt from taxation. *Bethesda Foundation v. County of Saunders*, 200 Neb. 574, 264 N.W.2d 664 (1978).

A home for retired teachers under the facts in this case held not to be exempt from taxation. *OEA Senior Citizens, Inc. v. County of Douglas*, 186 Neb. 593, 185 N.W.2d 464 (1971).

Property owned and used exclusively for religious or charitable purposes and not owned or used for financial gain or profit is exempt from taxation. *Christian Retirement Homes, Inc. v. Board of Equalization*, 186 Neb. 11, 180 N.W.2d 136 (1970).

Property of rest home was exempt from taxation under this section. *Evangelical Lutheran Good Samaritan Soc. v. County Board of Gage County*, 181 Neb. 831, 151 N.W.2d 446 (1967).

Legislature is empowered to exempt from taxation property owned and used exclusively for religious and charitable purposes. *Young Women's Christian Assn. v. City of Lincoln*, 177 Neb. 136, 128 N.W. 2d 600 (1964).

Property owned and used primarily for furnishing of low-rent housing is not exempt as being owned and used exclusively for charitable purposes. *County of Douglas v. OEA Senior Citizens, Inc.*, 172 Neb. 696, 111 N.W.2d 719 (1961).

Property of religious institution where used exclusively for religious and educational purposes was exempt from taxation. *Nebraska Conf. Assn. Seventh Day Adventists v. County of Hall*, 166 Neb. 588, 90 N.W.2d 50 (1958).

Property of hospital owned and used exclusively for charitable purposes is exempt. *Muller v. Nebraska Methodist Hospital*, 160 Neb. 279, 70 N.W.2d 86 (1955).

Property used exclusively for charitable purposes was exempt from assessment for street improvements. *Hanson v. City of Omaha*, 154 Neb. 72, 46 N.W.2d 896 (1951).

A tax on exempt property is void and where it is levied on property as a whole, part of which is exempt and part not, the assessment, if inseparable, is unauthorized and the whole tax is void. *McDonald v. Masonic Temple Craft*, 135 Neb. 48, 280 N.W. 275 (1938).

The power of a city under Home Rule Charter to assess and levy taxes does not extend to property that is exempt from taxation by virtue of constitutional provision. *East Lincoln Lodge No. 210, A.F. & A.M. v. City of Lincoln*, 131 Neb. 379, 268 N.W. 91 (1936).

Where two lower floors of building owned by religious, charitable and educational institution were rented for commercial purposes and not exempt from taxation, but two upper floors were exempt, one half of taxable value of lot could be considered in determining total taxable value of property. *Masonic Temple Craft v. Bd. of Equalization, Lincoln County*, 129 Neb. 293, 261 N.W. 569 (1935).

Property used exclusively for lodge purposes by Masonic organization is exempt. *Ancient & Accepted Scottish Rite v. Board of County Commissioners*, 122 Neb. 586, 241 N.W. 93 (1932), overruling *Scottish Rite Bldg. Co. v. Lancaster County*, 106 Neb. 95, 182 N.W. 574 (1921), and *Mt. Moriah Lodge, A.F. & A.M. v. Otoe County*, 101 Neb. 274, 162 N.W. 639 (1917).

Laundry property owned by a charitable institution, used exclusively for charitable purposes, was exempt. *House of the Good Shepherd v. Bd. of Equalization of Douglas County*, 113 Neb. 489, 203 N.W. 632 (1925).

Hospital used exclusively for religious and charitable purposes is exempt. *St. Elizabeth Hospital v. Lancaster County*, 109 Neb. 104, 189 N.W. 981 (1922).

That part of Y.M.C.A. building actually and necessarily used for the general purposes of the association is exempt. *Young Men's Christian Assn. of Lincoln v. Lancaster County*, 106 Neb. 105, 182 N.W. 593 (1921).

Masonic home for care of old and enfeebled members was exempt from taxation. *Plattsmouth Lodge, No. 6, A.F. & A.M. v. Cass County*, 79 Neb. 463, 113 N.W. 167 (1907).

Abandoned church property is not exempt. *Holthaus v. Adams County*, 74 Neb. 861, 105 N.W. 632 (1905).

Property held with future intention to build thereon is not exempt. *Y.M.C.A. of Omaha v. Douglas County*, 60 Neb. 642, 83 N.W. 924 (1900).

Exemption of religious property is confined to church edifices and related property, and not to property to be so used in future. *First Christian Church of Beatrice, NE v. City of Beatrice*, 39 Neb. 432, 58 N.W. 166 (1894).

4. Household goods and personal effects

Household goods and personal effects as defined by law referred to extant law and fixtures are not included. *State ex rel. Meyer v. Peters*, 191 Neb. 330, 215 N.W.2d 520 (1974).

Provision exempting from taxation household goods of the value of \$200 is a limitation upon the power to tax but does not exempt such property from sale for payment of taxes properly assessed on other property not exempt from execution. *Ryder v. Livingston*, 145 Neb. 862, 18 N.W.2d 507 (1945).

5. Miscellaneous

In determining the validity of exemptions enacted under this section, a court must consider (1) whether the exemptions improperly shift the property tax burden to the remaining tax base and (2) whether there is a substantial difference of

situation or circumstance justifying differing legislation for the objects classified. *Jaksha v. State*, 241 Neb. 106, 486 N.W.2d 858 (1992).

Stahmer v. State, 192 Neb. 63, 218 N.W.2d 893 (1974), holding that this provision prevails over the uniformity requirement of Neb. Const. art. VIII, section 1, is overruled. *MAPCO Ammonia Pipeline v. State Bd. of Equal.*, 238 Neb. 565, 471 N.W.2d 734 (1991).

Requiring registration of mobile homes and assessing a reasonable fee to defray cost of registration and inspection, if any, does not violate constitutional provision requiring uniform and proportionate taxation of personal property. *Gates v. Howell*, 204 Neb. 256, 282 N.W.2d 22 (1979).

The partial exemption from taxation of classes of property specified in section 77-202.25, is not unreasonable, objectionable as discriminatory, or violative hereof. *Stahmer v. State*, 192 Neb. 63, 218 N.W.2d 893 (1974).

The primary or dominant use of property is controlling in determining whether property is exempt from taxation. *Lincoln Woman's Club v. City of Lincoln*, 178 Neb. 357, 133 N.W.2d 455 (1965).

Tax on gross income of profit-sharing trust violated this section. *First Continental Nat. Bank & Trust Co. v. Davis*, 172 Neb. 118, 108 N.W.2d 638 (1961).

Construction of legislative act would not be adopted that would operate to exempt property from taxation. *Omaha Nat. Bank v. Jensen*, 157 Neb. 22, 58 N.W.2d 582 (1953).

Status of exempt property is determined by date of levy, rather than date of assessment. *American Province of Servants of Mary Real Estate Corp. v. County of Douglas*, 147 Neb. 485, 23 N.W.2d 714 (1946).

Legislature was not authorized to exempt intangible property having situs in this state from taxation. *International Harvester Co. v. County of Douglas*, 146 Neb. 555, 20 N.W.2d 620 (1945).

Legislature may exempt railroad company from payment of special assessments on benefits received. *Hinman v. Temple*, 133 Neb. 268, 274 N.W. 605 (1937).

Constitutional provision does not apply to gasoline tax. *State v. Cheyenne County*, 127 Neb. 619, 256 N.W. 67 (1934).

Parties to suit cannot stipulate as to law of case in taxation matters so as to bind the court. *North Platte Lodge No. 985, B.P.O.E. v. Board of Equalization of Lincoln County*, 125 Neb. 841, 252 N.W. 313 (1934).

The reason for exemption from taxation has no application to assessments for local improvements. *Drainage District No. 1 of Richardson County v. Richardson County*, 86 Neb. 355, 125 N.W. 796 (1910); *Beatrice v. Brethren Church of Beatrice*, 41 Neb. 358, 59 N.W. 932 (1894).

It is exclusive use of the property which determines its exemption character. *Academy of the Sacred Heart v. Irely*, 51 Neb. 755, 71 N.W. 752 (1897).

By the enabling act, federal government obligated state that no taxes should be imposed upon federal owned property. Leasehold interest of tenant on public land is not exempt. *State ex rel. Sioux County v. Tucker*, 38 Neb. 56, 56 N.W. 718 (1893).

VIII-2A. Exemption of personal property in transit in licensed warehouses or storage areas.

The Legislature may establish bonded and licensed warehouses or storage areas for goods, wares and merchandise in transit in the state which are intended for and which are shipped to final destinations outside this state upon leaving such warehouses or storage areas, and may exempt such goods, wares and merchandise from ad valorem taxation while in such storage areas.

Source: Neb. Const. art. VIII, sec. 2A (1960); Adopted 1960, Laws 1959, c. 239, sec. 1, p. 825.

Annotations:

Free port law does not violate constitutional provisions for uniformity and against special privileges. *Norden Laboratories, Inc. v. County Board of Equalization of Lancaster County*, 189 Neb. 437, 203 N.W.2d 152 (1973).

VIII-3. Redemption from sales of real estate for taxes.

The right of redemption from all sales of real estate, for the non-payment of taxes or special assessments of any character whatever, shall exist in favor of owners and persons interested in such real estate, for a period of not less than two years from such sales thereof. Provided, that occupants shall in all cases be served with personal notice before the time of redemption expires.

Source: Neb. Const. art. IX, sec. 3 (1875); Transferred by Constitutional Convention, 1919-1920, art. VIII, sec. 3.

Annotations: 1. Right of redemption 2. Personal notice 3. Miscellaneous

1. Right of redemption

This provision is self-executing. *County of Lancaster v. Schwarz*, 153 Neb. 472, 45 N.W.2d 432 (1950).

This section is self-executing. No statute or decree is necessary to enforce it, or place it in operation. *County of Douglas v. Christensen*, 144 Neb. 899, 15 N.W.2d 53 (1944).

Owner of realty sold under decree foreclosing valid tax sale certificate, where foreclosure was commenced more than two years subsequent to issuance of tax sale certificate, is barred from the right of redemption on confirmation of judicial sale. *Phelps County v. City of Holdrege*, 133 Neb. 139, 274 N.W. 483 (1937).

Payment made to redeem to the county treasurer by the owner acts only in favor of the real estate and special assessments as shown by the county treasurer's books to be subject to redemption. *Village of Winside v. Brune*, 133 Neb. 80, 274 N.W. 212 (1937).

In a tax foreclosure proceeding by a county to recover delinquent taxes on land without making purchaser at a prior administrative sale a party, the purchaser at the foreclosure sale buys subject to the right of one having a valid lien upon the premises to redeem from such sale, and the one claiming a lien cannot be barred without a hearing. *Smith v. Potter*, 92 Neb. 39, 137 N.W. 854 (1912).

Two year period of redemption commences to run from confirmation of sale under decree, where foreclosure of lien was instituted prior to administrative sale. *Bundy v. Wills*, 88 Neb. 554, 130 N.W. 273 (1911).

The two years in which to redeem begins to run at date of sale under decree. *Parsons v. Prudential Real Estate Co.*, 86 Neb. 271, 125 N.W. 521 (1910).

Right of redemption is secured not only to the owner but to any person interested in the land. *Douglas v. Hayes County*, 82 Neb. 577, 118 N.W. 114 (1908).

Redemption applies to judicial as well as administrative sales. *Selby v. Pueppka*, 73 Neb. 179, 102 N.W. 263 (1905).

Provision for redemption is self-executing and right exists without statutory provision or procedure. *Lincoln Street Railway Co. v. City of Lincoln*, 61 Neb. 109, 84 N.W. 802 (1901).

Where land of person under disability is sold for taxes, right to redeem extends to two years after disability removed. *Leavitt v. Bell*, 55 Neb. 57, 75 N.W. 524 (1898).

2. Personal notice

Personal notice is not required in sales under tax foreclosure. *County of Lincoln v. Provident Loan & Investment Co.*, 147 Neb. 169, 22 N.W.2d 609 (1946).

Personal service of notice is not required to be made upon a party who might have claimed the right to actual possession or occupancy but never in fact exercised that right. *Kuska v. Kubat*, 147 Neb. 139, 22 N.W.2d 484 (1946).

Personal notice is required in all cases where a tax deed is sought, but is not required in sales under tax foreclosures. *Connelly v. Hesselberth*, 132 Neb. 886, 273 N.W. 821 (1937).

Statute authorizing counties to foreclose liens for taxes delinquent more than three years is not violative hereof. Personal notice required hereby as to tax sales is not required in sales in tax foreclosure actions. *Douglas County v. Barker Co.*, 125 Neb. 253, 249 N.W. 607 (1933); *Commercial Savings & Loan Assn. v. Pyramid Realty Co.*, 121 Neb. 493, 237 N.W. 575 (1931).

Notice is required only when tax deed is sought but is not necessary in order to maintain action to enforce tax lien. *Van Etten v. Medland*, 53 Neb. 569, 74 N.W. 33 (1898).

Requirements for notice to owner is mandatory and applies to all tax sales after adoption of Constitution. *Hendrix v. Boggs*, 15 Neb. 469, 20 N.W. 28 (1884).

3. Miscellaneous

Provisions of scavenger tax law regarding objections to confirmation of sale was enacted to give owner of property sold for taxes the rights guaranteed to him hereunder. *State v. Several Parcels of Land*, 94 Neb. 431, 143 N.W. 471 (1913).

Sale of lands for taxes by judicial sale, without previous sale by county treasurer, is not forbidden by Constitution. *Logan County v. Carnahan*, 66 Neb. 685, 92 N.W. 984 (1902), affirmed on rehearing 66 Neb. 693, 95 N.W. 812 (1903).

Legislature has no power to make tax deed conclusive evidence of jurisdictional facts. *Thomsen v. Dickey*, 42 Neb. 314, 60 N.W. 558 (1894); *Larson v. Dickey*, 39 Neb. 463, 58 N.W. 167 (1894).

VIII-4. Legislature has no power to remit taxes; exception; cancellation of taxes on land acquired by the state.

Except as to tax and assessment charges against real property remaining delinquent and unpaid for a period of fifteen years or longer, the Legislature shall have no power to release or discharge any county, city, township, town, or district whatever, or the inhabitants thereof, or any corporation, or the property therein, from their or its proportionate share of taxes to be levied for state purposes, or due any municipal corporation, nor shall commutation for such taxes be authorized in any form whatever; *Provided*, that the Legislature may provide by law for the payment or cancellation of taxes or assessments against real estate remaining unpaid against real estate owned or acquired by the state or its governmental subdivisions.

Source: Neb. Const. art. IX, sec. 4 (1875); Transferred by Constitutional Convention, 1919-1920, art. VIII, sec. 4; Amended 1958, Laws 1957, c. 214, sec. 1, p. 750; Amended 1966, Laws 1965, c. 299, sec. 1, p. 845.

Annotations: 1. Release or commutation 2. Redemption 3. Miscellaneous

1. Release or commutation

The prohibition against commutation of taxes set forth in the Constitution of Nebraska does not apply to an excise tax. *Banks v. Heineman*, 286 Neb. 390, 837 N.W.2d 70 (2013).

Because the levy authorized under section 77-3442(2)(b) benefits all taxpayers in a learning community, which is the relevant taxing district, section 77-3442(2)(b) does not violate the constitutional prohibition under this provision against a commutation of taxes. *Sarpy Cty. Farm Bureau v. Learning Community*, 283 Neb. 212, 808 N.W.2d 598 (2012).

Because the levy authorized under section 79-1073 benefits all taxpayers in a learning community, which is the relevant taxing district, section 79-1073 does not violate the constitutional prohibition under this provision against a commutation of taxes. *Sarpy Cty. Farm Bureau v. Learning Community*, 283 Neb. 212, 808 N.W.2d 598 (2012).

The Class VI school system tax levy set forth in section 79-1078 (formerly section 79-438.13) does not result in the commutation of taxes and therefore does not violate this provision. *Swanson v. State*, 249 Neb. 466, 544 N.W.2d 333 (1996).

Although the Legislature is prohibited from changing the methods of payment of any tax once levied, a tax enacted and put into effect prior to the tax levy dates does not violate the constitutional proscription against commutation of a tax. *Jaksha v. State*, 241 Neb. 106, 486 N.W.2d 858 (1992).

Legislature does not have the power to release or discharge a tax. *State ex rel. Meyer v. Story*, 173 Neb. 741, 114 N.W.2d 769 (1962).

Prohibition against release of taxes had no application to receipt by county officers of money under court decree. *State ex rel. Heintze v. County of Adams*, 162 Neb. 127, 75 N.W.2d 539 (1956).

Blanket Mill Tax Levy Act operated to release and discharge taxes, and was unconstitutional. *Peterson v. Hancock*, 155 Neb. 801, 54 N.W.2d 85 (1952).

Where school district acquired title to land after tax became lien, lien could not be discharged without violating this section. *Madison County v. School Dist. No. 2 of Madison County*, 148 Neb. 218, 27 N.W.2d 172 (1947).

Intangible property of foreign corporation could not be released from taxation by Legislature. *International Harvester Co. v. County of Douglas*, 146 Neb. 555, 20 N.W.2d 620 (1945).

Sale of land to satisfy a tax sale certificate thereon is an extinguishment of the lien for taxes, becomes merged in the title, and does not constitute a release or commutation of taxes. *Lincoln County v. Shuman*, 138 Neb. 84, 292 N.W. 30 (1940).

Statutory provision that holder of certificate of tax sale in scavenger suit may surrender it to the county treasurer with request for its cancellation and such cancellation shall have effect of redemption from tax sale, is not a provision for the release or commutation of taxes within the constitutional prohibition. *Marker v. Scotts Bluff County*, 137 Neb. 360, 289 N.W. 534 (1939).

Interest, penalties and costs imposed for nonpayment of taxes are no part of the tax and may be remitted by the Legislature. *Tukey v. Douglas County*, 133 Neb. 732, 277 N.W. 57 (1938).

Sheriff, making a sale under a distress warrant to collect unpaid personal taxes, is justified in refusing a bid so inadequate as to amount to commutation of taxes. *Krug v. Hopkins*, 132 Neb. 768, 273 N.W. 221 (1937).

Statute providing that, under certain conditions, delinquent real estate taxes may be paid in ten equal annual installments contravenes constitutional provision prohibiting commutation of taxes in any form whatever. *Steinacher v. Swanson*, 131 Neb. 439, 268 N.W. 317 (1936).

Free high school instruction act does not violate this section. *Wilkinson v. Lord*, 85 Neb. 136, 122 N.W. 699 (1909); *High School Dist. No. 137, Havelock v. Lancaster County*, 60 Neb. 147, 82 N.W. 380 (1900).

Section does not apply to special assessment for local improvement. City may release same by compromise. *Farnham v. City of Lincoln*, 75 Neb. 502, 106 N.W. 666 (1906).

No tax can be released by purchase of the land at eminent domain proceedings. *State v. Missouri Pac. Ry. Co.*, 75 Neb. 4, 105 N.W. 983 (1905).

“Release” is extinguishment of debt. Sale of land for less than amount due is release within meaning of Constitution. *Woodrough v. Douglas County*, 71 Neb. 354, 98 N.W. 1092 (1904).

Statute attempting to exempt insurance companies from taxation is void. *State ex rel. Cornell v. Poynter*, 59 Neb. 417, 81 N.W. 431 (1899).

Taxes are perpetual lien on real estate and Legislature has no power to release any of same. *County of Lancaster v. Trimble*, 33 Neb. 121, 49 N.W. 938 (1891); *Wood v. Helmer*, 10 Neb. 65, 4 N.W. 968 (1880).

2. Redemption

Redemption from tax lien foreclosure cannot be made by paying amount of the bid, but only by paying full amount of taxes due with interest. *City of Plattsmouth v. Hazzard*, 132 Neb. 284, 271 N.W. 801 (1937).

Redemption from tax lien foreclosure by county may be made by owner or person interested only by paying full amount of taxes due with interest, not by paying only the amount bid at the sale. *Commercial Savings & Loan Assn. v. Pyramid Realty Co.*, 121 Neb. 493, 237 N.W. 575 (1931).

On redemption owner must pay full amount of tax due. *City of Beatrice v. Wright*, 72 Neb. 689, 101 N.W. 1039 (1904).

3. Miscellaneous

A request for refund of invalid tax or one paid as a result of clerical error must be by a written claim upon which the county board acts quasi-judicially, and upon request for declaratory relief on ground resolution for refund was invalid, refusal thereof was within discretion of district court where there was no showing such claim had not been filed. *Svoboda v. Hahn*, 196 Neb. 21, 241 N.W.2d 499 (1976).

The partial exemption from taxation of classes of property specified in section 77-202.25, is not unreasonable, objectionable as discriminatory, or violative hereof. *Stahmer v. State*, 192 Neb. 63, 218 N.W.2d 893 (1974).

While a penalty is not a part of the tax, it does have some of the attributes of the tax at least with respect to its distribution. *Misle v. Miller*, 176 Neb. 113, 125 N.W.2d 512 (1963).

Housing authority created by statute for slum clearance is a governmental subdivision and, as such, is exempt from taxation. *Lennox v. Housing Authority of City of Omaha*, 137 Neb. 582, 290 N.W. 451 (1940).

The state has an interest in the revenue of a county, and the Legislature may, for the public good, direct its application. *City of Fremont v. Dodge County*, 130 Neb. 856, 266 N.W. 771 (1936); *City of Beatrice v. Gage County*, 130 Neb. 850, 266 N.W. 777 (1936).

Lien for personal taxes against assets of an estate has priority over preferred claims in probate of estate. *In re Estate of Badberg*, 130 Neb. 216, 264 N.W. 467 (1936).

Priority of general taxes over special assessments is recognized by this section. *Douglas County v. Shannon*, 125 Neb. 783, 252 N.W. 199 (1934).

Banking authorities in control of state bank should pay taxes lawfully levied on bank’s intangible property before depositors and creditors. *Farmers State Bank of Belden v. Nelson*, 116 Neb. 541, 218 N.W. 393 (1928).

Statute authorizing city to levy tax for university campus extension is for corporate purpose, and hence not violative of this section. *Sinclair v. City of Lincoln*, 101 Neb. 163, 162 N.W. 488 (1917).

VIII-5. County taxes; limitation.

County authorities shall never assess taxes the aggregate of which shall exceed fifty cents per one hundred dollars of taxable value as determined by the assessment rolls, except for the payment of indebtedness existing at the adoption hereof, unless authorized by a vote of the people of the county.

Source: Neb. Const. art. IX, sec. 5 (1875); Amended 1920, Constitutional Convention, 1919-1920, No. 28; Transferred by Constitutional Convention, 1919-1920, art. VIII, sec. 5; Amended 1992, Laws 1992, LR 219CA, sec. 1.

Annotations: 1. Levy of taxes 2. Limitation on indebtedness 3. Miscellaneous

1. Levy of taxes

Levy in excess of constitutional limit to pay courthouse bonds required vote of people. *State ex rel. Shelley v. Board of County Commissioners*, 156 Neb. 583, 57 N.W.2d 129 (1953).

This section is a limitation upon the power of county authorities to tax. *Chicago, B. & Q. R. R. Co. v. County of Gosper*, 153 Neb. 805, 46 N.W.2d 147 (1951).

Law authorizing tax which, with other taxes, did not exceed constitutional limitation, is not invalid. *Cunningham v. Douglas County*, 104 Neb. 405, 177 N.W. 742 (1920).

Amount levied in excess of limitation is void. *Dakota County v. Chicago, St. Paul, Minn. & Omaha Ry. Co.*, 63 Neb. 405, 88 N.W. 663 (1902); *Chicago, B. & Q. R. R. Co. v. Nemaha County*, 50 Neb. 393, 69 N.W. 958 (1897).

This section is not a grant of power but a limitation and operates upon both the county and the Legislature. *Grand Island & Wyoming Central R. R. Co. v. County of Dawes*, 62 Neb. 44, 86 N.W. 934 (1901).

Taxes levied to pay judgment against the county should be included. *Chase County v. Chicago, B. & Q. R. R. Co.*, 58 Neb. 274, 78 N.W. 502 (1899).

Section means that except for special reasons mentioned, county is without authority to levy a tax in excess of limitation for county purposes. *Chicago, B. & Q. R. R. Co. v. Klein*, 52 Neb. 258, 71 N.W. 1069 (1897).

Road district tax should be included in ascertaining the maximum tax limit for the county. *Dixon County v. Chicago, St. Paul, Minn. & Omaha Ry. Co.*, 1 Neb. Unof. 240, 95 N.W. 340 (1901).

2. Limitation on indebtedness

Recovery quantum meruit cannot be permitted in an amount in excess of the debt limitation imposed by this section. *Warren v. County of Stanton*, 147 Neb. 32, 22 N.W.2d 287 (1946).

County authorities are prohibited from issuing warrants in any one year in excess of maximum amount that can be assessed as taxes. *Warren v. Stanton County*, 145 Neb. 220, 15 N.W.2d 757 (1944).

County cannot be required to expend more for poor relief than it can obtain by taxation under constitutional limitations. *State ex rel. Boxberger v. Burns*, 132 Neb. 31, 270 N.W. 656 (1937).

Under the prohibition of this section the county cannot issue warrants in excess of limitation. *In re House Roll 284*, 31 Neb. 505, 48 N.W. 275 (1891).

3. Miscellaneous

Public building commission tax under section 23-2604, R.S.Supp.,1971, is not a county tax. *Dwyer v. Omaha-Douglas Public Building Commission*, 188 Neb. 30, 195 N.W.2d 236 (1972).

Mother's Pension Act did not violate this section. *Rumsey v. Saline County*, 102 Neb. 302, 167 N.W. 66 (1918).

VIII-6. Local improvements of cities, towns and villages.

The Legislature may vest the corporate authorities of cities, towns and villages, with power to make local improvements, including facilities for providing off-street parking for vehicles, by special assessments or by special taxation of property benefited, and to redetermine and reallocate from time to time the benefits arising from the acquisition of such off-street parking facilities, and the Legislature may vest the corporate authorities of cities and villages with power to levy special assessments for the maintenance, repair and reconstruction of such off-street parking facilities. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes, but such taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same, except that cities and villages may be empowered by the Legislature to assess and collect separate and additional taxes within off-street parking districts created by and within any city or village on such terms as the Legislature may prescribe.

Source: Neb. Const. art. IX, sec. 6 (1875); Transferred by Constitutional Convention, 1919-1920, art. VIII, sec. 6; Amended 1972, Laws 1972, LB 1429, sec. 1.

Annotations: 1. Special assessments 2. Occupation and license taxes 3. Miscellaneous

1. Special assessments

Statute authorizing paving in city of the second class did not violate this section. *Elliott v. City of Auburn*, 172 Neb. 1, 108 N.W.2d 328 (1961).

Sewerage service charges are not special assessments for a general improvement. *Michelson v. City of Grand Island*, 154 Neb. 654, 48 N.W.2d 769 (1951).

Paving assessments in excess of present or reasonable prospective benefits are unauthorized. *Munsell v. City of Hebron*, 117 Neb. 251, 220 N.W. 289 (1928).

This section leaves mode of application of power to make local improvements to be provided for by legislation. *Whitla v. Connor*, 114 Neb. 526, 208 N.W. 670 (1926).

Act authorizing private individuals to create and fix boundaries for improvement district is void. *Elliott v. Wille*, 112 Neb. 86, 200 N.W. 347 (1924).

This section by implication limits assessments for local improvements to lots or tracts affected. *Brown Real Estate Co. v. Lancaster County*, 110 Neb. 665, 194 N.W. 897 (1923).

Sewage disposal plant is for benefit of entire city and statute authorizing cost to be paid by special assessment on property is unconstitutional. *Hurd v. Sanitary Sewer Dist. No. 1 of Harvard*, 109 Neb. 384, 191 N.W. 438 (1922).

Statute authorizing creation of paving districts by city council without petition of property owners is not unconstitutional. *Fitzgerald v. Sattler*, 102 Neb. 665, 168 N.W. 599 (1918).

To sustain special assessments, property taxed must lie within the improved district. *McCaffrey v. City of Omaha*, 91 Neb. 184, 135 N.W. 552 (1912).

The basis of special assessment is that value of property has been correspondingly increased, without which no such assessment can be levied. *Schneider v. Plum*, 86 Neb. 129, 124 N.W. 1132 (1910).

Constitution here recognizes distinction between assessment for special benefits and taxes for general revenue purposes. *Farnham v. City of Lincoln*, 75 Neb. 502, 106 N.W. 666 (1906); *City of Beatrice v. Brethren Church of Beatrice*, 41 Neb. 358, 59 N.W. 932 (1894).

Special assessments may be levied to defray the cost of opening street in city. *Parrotte v. City of Omaha*, 61 Neb. 96, 84 N.W. 602 (1900).

It is not necessary that property assessed shall be platted. *Medland v. Linton*, 60 Neb. 249, 82 N.W. 866 (1900).

Right of municipal corporation to levy assessments on property is express power resting alone on constitutional authority. *Hurford v. City of Omaha*, 4 Neb. 336 (1876).

2. Occupation and license taxes

Gearing license and occupation taxes to the area of occupancy and not weighing other considerations does not offend the requirement that such taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same. *Blackledge v. Richards*, 194 Neb. 188, 231 N.W.2d 319 (1975).

Occupation tax need not be measured by profits from the business. It must, however, be reasonable. *City of Grand Island v. Postal Telegraph Cable Co.*, 92 Neb. 253, 138 N.W. 169 (1912).

Occupation tax upon gross earnings of a business is authorized by this section. *Lincoln Traction Co. v. City of Lincoln*, 84 Neb. 327, 121 N.W. 435 (1909).

Legislature may delegate power to municipalities to tax foreign insurance companies. *Aachen & Munich Fire Ins. Co. v. City of Omaha*, 72 Neb. 518, 101 N.W. 3 (1904).

3. Miscellaneous

Section 1 and this provision provide that the Legislature can empower a city to tax, but article XI authorizes a city with a limitation of powers home rule charter to exercise that power to tax without first waiting for express delegation. *Home Builders Assn. v. City of Lincoln*, 271 Neb. 353, 711 N.W.2d 871 (2006).

Act establishing Court of Industrial Relations does not violate any constitutional provision and the standards for its guidance are adequate. *Orleans Education Assn. v. School Dist. of Orleans*, 193 Neb. 675, 229 N.W.2d 172 (1975).

Ad valorem taxes must be uniform in respect to persons within the jurisdiction of the body imposing the tax. *Lynch v. Howell*, 165 Neb. 525, 86 N.W.2d 364 (1957).

Housing authority created by statute for slum clearance is a governmental subdivision and, as such, is exempt from taxation. *Lennox v. Housing Authority of City of Omaha*, 137 Neb. 582, 290 N.W. 451 (1940).

Act permitting cities and villages to levy taxes for building of viaducts is valid. *Hinman v. Temple*, 133 Neb. 268, 274 N.W. 605 (1937).

Statute authorizing levy of tax for university campus extension is for benefit of city and “for corporate purposes.” *Sinclair v. City of Lincoln*, 101 Neb. 163, 162 N.W. 488 (1917).

Power granted includes power to levy tax by counties to pay for drainage improvements. *Drainage District No. 1, Richardson County v. Richardson County*, 86 Neb. 355, 125 N.W. 796 (1910); *Dodge County v. Acom*, 61 Neb. 376, 85 N.W. 292 (1901); *Darst v. Griffin*, 31 Neb. 668, 48 N.W. 819 (1891).

Township is a municipal corporation within meaning of this section. *Union Pac. R. R. Co. v. Howard County*, 66 Neb. 663, 92 N.W. 579 (1902), reversed on rehearing 66 Neb. 667, 97 N.W. 280 (1903).

The rule of uniformity in municipal taxes is required by this section. *State ex rel. Bee Building Co. v. Savage*, 65 Neb. 714, 91 N.W. 716 (1902).

Municipal taxes need not be levied or collected in the same manner as state taxes. *State ex rel. Prout v. Aitken*, 62 Neb. 428, 87 N.W. 153 (1901).

This section authorized Legislature, not to levy tax for municipal purposes, but to authorize municipalities themselves to do so. *City of York v. Chicago, B. & Q. R. R. Co.*, 56 Neb. 572, 76 N.W. 1065 (1898).

City has power to drain property to abate nuisance of stagnant water and assess cost to property, but not without notice to owner. *Horbach v. City of Omaha*, 54 Neb. 83, 74 N.W. 434 (1898).

Land annexed to municipality is not exempt from taxation for preexisting debts. *Gottschalk v. Becher*, 32 Neb. 653, 49 N.W. 715 (1891).

VIII-7. Private property not liable for corporate debts; municipalities and inhabitants exempt for corporate purposes.

Private property shall not be liable to be taken or sold for the payment of the corporate debts of municipal corporations. The Legislature shall not impose taxes upon municipal corporations, or the inhabitants or property thereof, for corporate purposes.

Source: Neb. Const. art. IX, sec. 7 (1875); Transferred by Constitutional Convention, 1919-1920, art. VIII, sec. 7.

Annotations: 1. Tax for corporate purpose 2. Tax not for corporate purpose 3. Miscellaneous

1. Tax for corporate purpose

The prohibition in this section applies only where the levy is for corporate or proprietary purposes and is not levied by local authority and therefore is not contravened by L.B. 1003, Eighty-second Legislature, First Session, sections 23-2601 to 23-2612. *Dwyer v. Omaha-Douglas Public Building Commission*, 188 Neb. 30, 195 N.W.2d 236 (1972).

Creating liability against a village for benefits to streets and alleys for drainage improvements within a drainage district is not in contravention of this section. *Drainage District No. 1 in Lincoln County v. Village of Hershey*, 145 Neb. 138, 15 N.W.2d 337 (1944).

Law imposing tax for operation by city of water and gas plants is unconstitutional hereunder. *Metropolitan Utilities Dist. v. City of Omaha*, 112 Neb. 93, 198 N.W. 858 (1924).

City ordinance imposing charge for support of fire departments is void. *German-American Fire Insurance Co. v. City of Minden*, 51 Neb. 870, 71 N.W. 995 (1897). See also *Aachen & Munich Fire Insurance Co. v. City of Omaha*, 72 Neb. 518, 101 N.W. 3 (1904).

Act imposing charge upon fire insurance company for support of fire departments is tax for corporate purposes and void. *State v. Wheeler*, 33 Neb. 563, 50 N.W. 770 (1891).

2. Tax not for corporate purpose

Creation of housing authorities by statute for slum clearance does not contravene constitutional inhibitions. *Lennox v. Housing Authority of City of Omaha*, 137 Neb. 582, 290 N.W. 451 (1940).

Intangible tax law is not violative of provision against imposing taxes on municipalities for corporate purposes. *Mehrens v. Greenleaf*, 119 Neb. 82, 227 N.W. 325 (1929).

Law imposing on municipality obligation to levy tax to pay hydrant rentals was constitutional, not being for “corporate purpose.” *State ex rel. Metropolitan Utilities Dist. v. City of Omaha*, 112 Neb. 694, 200 N.W. 871 (1924).

Act authorizing county to levy tax to raise road fund is political power and not for corporate purposes within meaning of this section. *City of Albion v. Boone County*, 94 Neb. 494, 143 N.W. 749 (1913).

Act authorizing city to pension firemen and imposition of tax therefor does not violate this section. *State ex rel. Haberman v. Love*, 89 Neb. 149, 131 N.W. 196 (1911).

Act authorizing city to enforce assessment against street railway for pavement between its tracks does not violate this section. *Lincoln Street Railway Co. v. City of Lincoln*, 61 Neb. 109, 84 N.W. 802 (1901).

3. Miscellaneous

The prohibition in this section applies only where the levy is for corporate or proprietary purposes and is not levied by local authority and therefore is not contravened by L.B. 1003, Eighty-second Legislature, First Session, sections 23-2601 to 23-2612. *Dwyer v. Omaha-Douglas Public Building Commission*, 188 Neb. 30, 195 N.W.2d 236 (1972).

The term municipal corporations herein refers only to those which exercise governmental as distinguished from proprietary functions. *Evans v. Metropolitan Utilities Dist.*, 187 Neb. 261, 188 N.W.2d 851 (1971).

Cited but not discussed. *R-R Realty Co. v. Metropolitan Utilities Dist.*, 184 Neb. 237, 166 N.W.2d 746 (1969).

Airport Authority Act did not violate this section. *Obitz v. Airport Authority of City of Red Cloud*, 181 Neb. 410, 149 N.W.2d 105 (1967).

A county is not a “municipal corporation” within meaning of constitutional provision, and gasoline tax imposed thereon is valid. *State v. Cheyenne County*, 127 Neb. 619, 256 N.W. 67 (1934).

VIII-8. Funding indebtedness; warrants.

The Legislature at its first session shall provide by law for the funding of all outstanding warrants, and other indebtedness of the state, at a rate of interest not exceeding eight per cent per annum.

Source: Neb. Const. art. IX, sec. 8 (1875); Transferred by Constitutional Convention, 1919-1920, art. VIII, sec. 8.

Annotations:

The sole object of this section is to provide for the payment of existing state debts, the execution of which exhausts the power conferred by this section. *State ex rel. Omaha National Bank v. McBride*, 6 Neb. 506 (1877).

VIII-9. Claims upon treasury; adjustment; approval; appeal.

The Legislature shall provide by law that all claims upon the treasury shall be examined and adjusted as the Legislature may provide before any warrant for the amount allowed shall be drawn. Any party aggrieved by the action taken on a claim in which he has an interest may appeal to the district court.

Source: Neb. Const. art. IX, sec. 9 (1875); Transferred by Constitutional Convention, 1919-1920, art. VIII, sec. 9; Amended 1964, Laws 1963, c. 302, sec. 2(3), p. 896.

Annotations: 1. Appeal to district court 2. Miscellaneous

1. Appeal to district court

Certified transcript of proceedings before auditor and Secretary of State must be filed in district court to confer jurisdiction on appeal. *Pickus v. State*, 115 Neb. 869, 215 N.W. 129 (1927).

Word “appeal” signifies transfer of proceeding for review to district court. *Hooper Tel. Co. v. Nebraska Tel. Co.*, 96 Neb. 245, 147 N.W. 674 (1914).

2. Miscellaneous

Section 81-8,305 does not violate this provision. *Pavers, Inc. v. Board of Regents*, 276 Neb. 559, 755 N.W.2d 400 (2008).

Nebraska State Board of Agriculture, through failure to have claims examined and allowed by Auditor of Public Accounts, disclosed administrative construction that it was not a governmental agency. *Crete Mills v. Nebraska State Board of Agriculture*, 132 Neb. 244, 271 N.W. 684 (1937).

Mandamus is proper remedy against state officers to enforce execution and delivery of warrant where appropriation therefor has been made by Legislature. *State ex rel. National Surety Corp. v. Price*, 129 Neb. 433, 261 N.W. 894 (1935).

Act providing for refunding of excess grain inspection fees was not in conflict herewith. *Bollen v. Price*, 129 Neb. 342, 261 N.W. 689 (1935).

Word “claims” means claims which state is or may be under legal obligation to pay. It does not include appropriation of specific fund by Legislature to named person as donation, gift, or reward, or for which state was under no legal obligation. State ex rel. Sayre v. Moore, 40 Neb. 854, 59 N.W. 755 (1894).

This section was intended to restrict application of money raised by taxation and not as limitation upon discretion of Legislature in selecting agencies through which it is to be expended. State ex rel. Garneau v. Moore, 37 Neb. 507, 55 N.W. 1078 (1893), 56 N.W. 154 (1893).

VIII-10. Taxation of grain and seed; alternative basis permitted.

Notwithstanding the other provisions of Article VIII, the Legislature is authorized to substitute a basis other than valuation for taxes upon grain and seed produced or handled in this state. Existing revenue laws not inconsistent with the Constitution shall continue in effect until changed by the Legislature.

Source: Neb. Const. art. VIII, sec. 10 (1956); Adopted 1956, Laws 1955, c. 197, sec. 1, p. 562.

VIII-11. Public corporations and political subdivisions providing electricity; payment in lieu of taxes.

Every public corporation and political subdivision organized primarily to provide electricity or irrigation and electricity shall annually make the same payments in lieu of taxes as it made in 1957, which payments shall be allocated in the same proportion to the same public bodies or their successors as they were in 1957.

The legislature may require each such public corporation to pay to the treasurer of any county in which may be located any incorporated city or village, within the limits of which such public corporation sells electricity at retail, a sum equivalent to five (5) per cent of the annual gross revenue of such public corporation derived from retail sales of electricity within such city or village, less an amount equivalent to the 1957 payments in lieu of taxes made by such public corporation with respect to property or operations in any such city or village. The payments in lieu of tax as made in 1957, together with any payments made as authorized in this section shall be in lieu of all other taxes, payments in lieu of taxes, franchise payments, occupation and excise taxes, but shall not be in lieu of motor vehicle licenses and wheel taxes, permit fees, gasoline tax and other such excise taxes or general sales taxes levied against the public generally.

So much of such five (5) per cent as is in excess of an amount equivalent to the amount paid by such public corporation in lieu of taxes in 1957 shall be distributed in each year to the city or village, the school districts located in such city or village, the county in which such city or village is located, and the State of Nebraska, in the proportion that their respective property tax mill levies in each such year bear to the total of such mill levies.

Source: Neb. Const. art. VIII, sec. 11 (1958); Adopted 1958, Initiative Measure No. 300, art. VIII, sec. 10. **Note:** At the general election in 1958, an amendment was adopted pursuant to initiative petition providing for payment in lieu of taxes by public corporations and political subdivisions supplying electricity. This amendment stated it was to amend Article VIII by adding a new section. The figure 10 was shown at the beginning of the new section to be added. There was already an amendment to the Constitution adopted in 1956 designated as Article VIII, section 10. Therefore, the 1958 amendment has been designated as Article VIII, section 11.

Annotations:

Article VIII, section 2, must defer to this provision and its limitation on the Legislature’s ability to tax the public property of political subdivisions governed by this section. Conroy v. Keith Cty. Bd. of Equal., 288 Neb. 196, 846 N.W.2d 634 (2014).

In relation to public property owned by a political subdivision governed by this provision, property taxes (assessed against the lessee) and a payment in lieu of tax may both be collected. Conroy v. Keith Cty. Bd. of Equal., 288 Neb. 196, 846 N.W.2d 634 (2014).

This provision does not exempt from property taxation the lessees of the property of a political subdivision organized primarily to provide electricity or irrigation and electricity. Conroy v. Keith Cty. Bd. of Equal., 288 Neb. 196, 846 N.W.2d 634 (2014).

When a political subdivision governed by this provision makes a payment in lieu of tax pursuant to this section, that payment eliminates the tax liability of the political subdivision for property taxes in that same year, regardless of the purpose for which the property is being used. Conroy v. Keith Cty. Bd. of Equal., 288 Neb. 196, 846 N.W.2d 634 (2014).

Payments made by public power district were not franchise payments. *City of O'Neill v. Consumers P. P. Dist.*, 179 Neb. 773, 140 N.W.2d 644 (1966).

VIII-12. Cities or villages; redevelopment project; substandard and blighted property; incur indebtedness; taxes; how treated.

For the purpose of rehabilitating, acquiring, or redeveloping substandard and blighted property in a redevelopment project as determined by law, any city or village of the state may, notwithstanding any other provision in the Constitution, and without regard to charter limitations and restrictions, incur indebtedness, whether by bond, loans, notes, advance of money, or otherwise. Notwithstanding any other provision in the Constitution or a local charter, such cities or villages may also pledge for and apply to the payment of the principal, interest, and any premium on such indebtedness all taxes levied by all taxing bodies, which taxes shall be at such rate for a period not to exceed fifteen years, on the assessed valuation of the property in the project area portion of a designated blighted and substandard area that is in excess of the assessed valuation of such property for the year prior to such rehabilitation, acquisition, or redevelopment.

When such indebtedness and the interest thereon have been paid in full, such property thereafter shall be taxed as is other property in the respective taxing jurisdictions and such taxes applied as all other taxes of the respective taxing bodies.

Source: Neb. Const. art. VIII, sec. 12 (1978); Adopted 1978, Laws 1978, LB 469, sec. 1; Amended 1984, Laws 1984, LR 227, sec. 1; Amended 1988, Laws 1987, LR 11, sec. 1.

VIII-13. Revenue laws and legislative acts; how construed.

Notwithstanding Article I, section 16, Article III, section 18, or Article VIII, section 1 or 4, of this Constitution or any other provision of this Constitution to the contrary, amendments to Article VIII of this Constitution passed in 1992 shall be effective from and after January 1, 1992, and existing revenue laws and legislative acts passed in the regular legislative session of 1992, not inconsistent with this Constitution as amended, shall be considered ratified and confirmed by such amendments without the need for legislative reenactment of such laws.

Source: Neb. Const. art. VIII, sec. 13 (1992); Adopted 1992, Laws 1992, LR 219CA, sec. 1.

Links: [Nebraska Constitution – Nebraska Legislature](#); [PDF](#).