

Constitution of Nebraska

Article VIII: Revenue

Sec 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, trucktractors, 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



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LEVEL OF VALUE AND QUALITY OF ASSESSMENT MEASUREMENT

Purpose

To inform county assessors of the methods the Nebraska Department of Revenue, Property Assessment Division (Department) will use to measure each county's level of assessed value relative to the market value and the quality of the processes used by the county assessor to develop uniform and proportionate assessments each assessment year in preparation for the statewide equalization proceedings. This Directive does not provide advice on how county assessors should value property.

Development of the Sales File

The Property Tax Administrator (PTA) maintains a database that contains sales used to measure the level of value and the quality of assessment for each county pursuant to Neb. Rev. Stat. § 77-1327. The sales file database is developed using the following criteria:

1. All Real Estate Transfer Statements, Forms 521, with a documentary stamp tax greater than \$2.25, or consideration greater than \$100, are considered sales;
2. Sales are deemed to be arm's-length transactions unless sufficient information proves otherwise. The county assessor will indicate his or her opinion regarding the inclusion or exclusion of the sale as an arm's-length transaction. If the county assessor indicates no opinion about the inclusion or exclusion of a sale, the sale will be included in the sales file, unless further review by the Department or the county assessor indicates the sale is not an arm's-length transaction; and
3. Sales within the study period contain current assessment information provided by county assessors. Once the county assessor has established the assessed values for the assessment year, the values must be updated for each sale in the state sales file on or before March 19. Beginning in 2014, for counties with at least 150,000 inhabitants, the assessed values for the assessment year must be updated for each sale in the state sales file on or before March 25 each year.

Statistical Studies

The PTA annually develops statistical studies of residential, commercial, and agricultural real property. These studies are based on the sales file developed by the Department, and include the following:

1. Residential - Includes qualified improved sales of residential and recreational real property for a 2-year period between October 1 and September 30. This 2-year period ends the year prior to the assessment year for which values are established;
2. Commercial - Includes qualified improved sales of commercial, industrial, and multi-family real property for a 3-year period between October 1 and September 30. This 3-year period ends the year prior to the assessment year for which values are established;
3. Agricultural and Horticultural Land - Includes qualified unimproved and minimally improved sales of agricultural and horticultural land for a 3-year period between October 1 and September 30. This 3-year period ends the year prior to the assessment year for which values are established. Minimally-improved sales are defined as sales in which the assessed value of the non-agricultural component (improvements and directly-associated land) is less than 5% of the sale price; and
4. Special Valuation of Agricultural and Horticultural Land in Fully-Influenced Counties - Includes qualified unimproved and minimally-improved sales of agricultural and horticultural land for a 3-year period between October 1 and September 30. This 3-year period ends the year prior to the assessment year for which values are established.

Sales Analysis

Using the qualified sales identified above, the Department will determine if the sales collectively represent the class or subclass of real property being measured. This analysis ensures the margin of error is minimal when determining the level of value. Groups of residential or commercial sales identified as non-representative (for example, small numbers of sales, statistical variability caused by outlier ratios, influx of unique sales, etc.) will be analyzed to determine if the sample can be made representative by excluding over-represented areas, or outlier sales.

For agricultural land, the Department will remedy non-representative samples by including comparable sales from common market areas existing outside of the county boundary, if possible. Analysis will include the review of the sales by study year and majority land use. The number of sales in each of the three study period years will be analyzed to ensure the levels of value are equalized between counties. Additionally, the assessed values between bordering counties that share similar markets will be analyzed.

Notice to county is a condition precedent to a valid order. *Laflin v. State Board of Equalization and Assessment*, 156 Neb. 427, 56 N.W.2d 469 (1953).

Without giving of statutory notice, State Board of Equalization and Assessment has no jurisdiction to order decrease of assessed valuation of a class or classes of property in all counties of the state. *Antelope County v. State Board of Equalization & Assessment*, 146 Neb. 661, 21 N.W.2d 416 (1946).

Increase in assessment valuation without notice or sufficient opportunity for hearing is violative of this section and amounts to confiscation of property without due process of law. *American Tel. & Tel. Co. v. State Board of Equalization and Assessment*, 119 Neb. 142, 227 N.W. 455 (1929); *Northwestern Bell Tel. Co. v. State Board of Equalization and Assessment*, 119 Neb. 138, 227 N.W. 452 (1929); *Lincoln Tel. & Tel. Co. v. State Board of Equalization and Assessment*, 119 Neb. 137, 227 N.W. 454 (1929); *Stanton County v. State Board of Equalization and Assessment*, 119 Neb. 136, 227 N.W. 454 (1929).

77-5027. Commission; change valuation; Property Tax Administrator; duties. (1) The commission shall, pursuant to section 77-5026, raise or lower the valuation of any class or subclass of real property in a county when it is necessary to achieve equalization.

(2) On or before nineteen days following the final filing due date for the abstract of assessment for real property pursuant to section 77-1514, the Property Tax Administrator shall prepare and deliver to the commission and to each county assessor his or her annual reports and opinions. Beginning January 1, 2014, for any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the reports or opinions shall be prepared and delivered on or before fifteen days following such final filing due date.

(3) The annual reports and opinions of the Property Tax Administrator shall contain statistical and narrative reports informing the commission of the level of value and the quality of assessment of the classes and subclasses of real property within the county and a certification of the opinion of the Property Tax Administrator regarding the level of value and quality of assessment of the classes and subclasses of real property in the county.

(4) In addition to an opinion of level of value and quality of assessment in the county, the Property Tax Administrator may make nonbinding recommendations for consideration by the commission.

(5) The Property Tax Administrator shall employ the methods specified in section 77-112, the comprehensive assessment ratio study specified in section 77-1327, other statistical studies, and an analysis of the assessment practices employed by the county assessor. If necessary to determine the level of value and quality of assessment in a county, the Property Tax Administrator may use sales of comparable real property in market areas similar to the county or area in question or from another county as indicators of the level of value and the quality of assessment in a county. The Property Tax Administrator may use any other relevant information in providing the annual reports and opinions to the commission.

Source: Laws 1969, c. 628, § 1, p. 2528; Laws 1987, LB508, § 22; Laws 1988, LB1207, § 1; Laws 1989, LB361, § 6; Laws 1995, LB490, § 57; Laws 1997, LB342, § 2; R.S.1943, (1996), § 77-508.01; Laws 1997, LB397, § 45; Laws 2001, LB170, § 26; Laws 2004, LB973, § 65; Laws 2005, LB263, § 15; Laws 2011, LB384, § 35.

Annotations

Pursuant to this section, when ordering an adjustment for purposes of equalization, the Tax Equalization and Review Commission is authorized to adjust only by class or subclass. *Bartlett v. Dawes Cty. Bd. of Equal.*, 259 Neb. 954, 613 N.W.2d 810 (2000).

It is only when the appraisal made by the Tax Commissioner, under proper statutory provisions, fails to reflect current values to use in an assessment/sales ratio that this section requires the use of qualified appraisers. *Banner County v. State Board of Equalization & Assessment*, 206 Neb. 715, 295 N.W.2d 682 (1980).

The requirement of section 77-1315, R.R.S.1943, for notice of increase in valuation is not applicable hereunder. *Hansen v. County of Lincoln*, 188 Neb. 461, 197 N.W.2d 651 (1972).

77-5028. Commission; enter order. After a hearing conducted pursuant to section 77-5026, the commission shall enter its order based on information presented to it at the hearing. The order of the commission shall be sent by certified mail to the county assessor and by regular mail to the county clerk and chairperson of the county board on or before May 15 of each year or the date determined by the Property Tax Administrator if an extension is ordered pursuant to section 77-1514, unless the offices of the commission are closed, then the order of the commission shall be sent by the end of the next day the commission's offices are open. The order shall specify the percentage increase or decrease and the class or subclass of real property affected or the corrections or adjustments to be made to each parcel of real property in the class or subclass affected. The specified changes shall be made by the county assessor to each parcel of real property in the county so affected.

Source: Laws 1921, c. 133, art. XI, § 4, p. 591; C.S.1922, § 5901; C.S.1929, § 77-1004; Laws 1933, c. 129, § 1, p. 505; C.S.Supp.,1941, § 77-1004; R.S.1943, § 77-509; Laws 1959, c. 359, § 1, p. 1275; Laws 1969, c. 656, § 1, p.