

CONSTITUTIONAL ISSUES IN PROPERTY TAX: UNIFORMITY

National Conference of State Tax Court Judges

45th Annual Meeting

Little Rock, Arkansas

October 24, 2025

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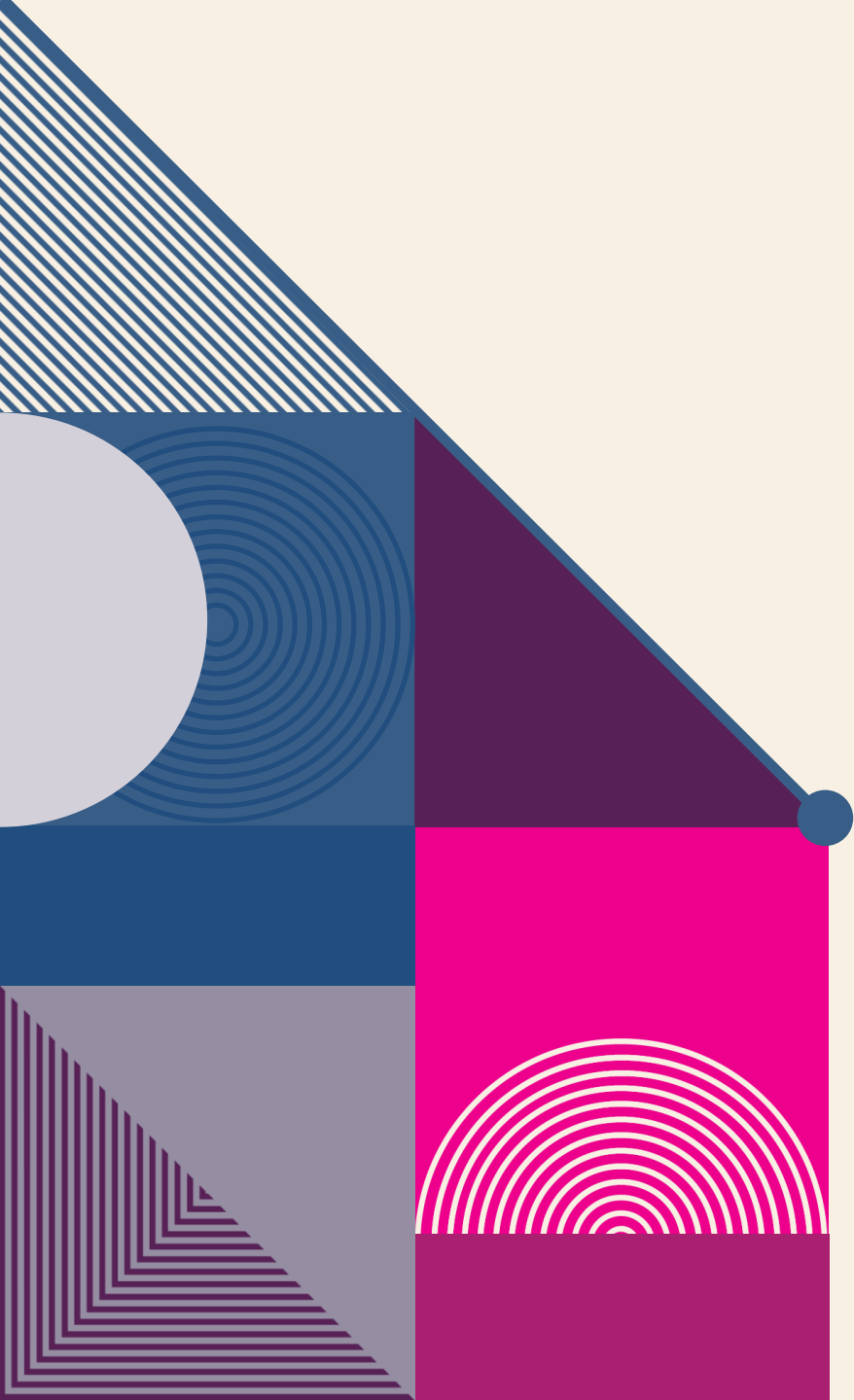
INTRODUCTION & PURPOSE

Review federal and common state uniformity protections and limitations for property taxes.

Consider current constitutional standards for property taxation.

Note: States often have additional constitutional limitations on property taxation beyond the scope of this presentation.





AGENDA

Federal Equal Protection Clause

Federal Commerce Clause

State Uniformity Clauses

Recent Cases



While our State Constitution requires uniformity and equality in taxation, no one has ever believed that either could be attained as a practical matter. The constitutional provision is a statement of an ideal, and is implemented by numerous statutes, all seeking to put into practice such ideal so far as is humanly possible. But do all we can, and attempt as rigidly as we may to enforce such statutes, we will fall far short of attaining equality, uniformity and justice in levying taxes.

IN RE CHARLESTON FED. SAV. & LOAN ASS'N, 30 S.E.2D 513, 517 (W. VA. 1944)



EQUAL PROTECTION CLAUSE OF THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; *nor deny to any person within its jurisdiction the equal protection of the laws.*



ALLEGHENY PITTSBURGH COAL CO. V. WEBSTER COUNTY

488 U.S. 336 (1989)

- The tax assessor valued petitioners' real property upon the basis of its recent purchase price. Other properties not recently transferred were assessed based upon their previous assessments with minor modifications.
 - This system resulted in gross disparities of the assessed value of generally comparable property.
- The West Virginia Supreme Court of Appeals held that the record did not support a finding of intentional and systematic discrimination because petitioners' property was not assessed at more than true value.



ALLEGHENY PITTSBURGH COAL CO. V. WEBSTER COUNTY

- The assessments of petitioners' property violated the Equal Protection Clause.
- While there is no constitutional defect in a scheme that bases an assessment on the recent arm's-length purchase price of the property and which uses a general adjustment as a transitional substitute for an individual reappraisal of other parcels, Equal Protection requires that such general adjustments be accurate enough to obtain, over a short period of time, rough equality in tax treatment of similarly situated property owners.



ALLEGHENY PITTSBURGH COAL CO. V. WEBSTER COUNTY

- The Equal Protection Clause permits a State to divide different kinds of property into classes and to assign to each a different tax burden so long as those divisions and burdens are neither arbitrary nor capricious.
- West Virginia had not drawn such a distinction in this case, as its Constitution and laws provided that all property of the kind held by petitioners shall be taxed uniformly according to its estimated market value.

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ALLEGHENY PITTSBURGH COAL CO. V. WEBSTER COUNTY

- The State might on its own initiative remove the discrimination against petitioners by raising the assessments of systematically and intentionally undervalued property in the same class.
- A taxpayer in petitioners' position, however, forced to litigate for redress, may not be remitted by the State to the remedy of seeking to have the assessments of the undervalued property raised.
 - "The [Equal Protection Clause] is not satisfied if a State does not itself remove the discrimination, but imposes on him against whom the discrimination has been directed the burden of seeking an upward revision of the taxes of other members of the class."

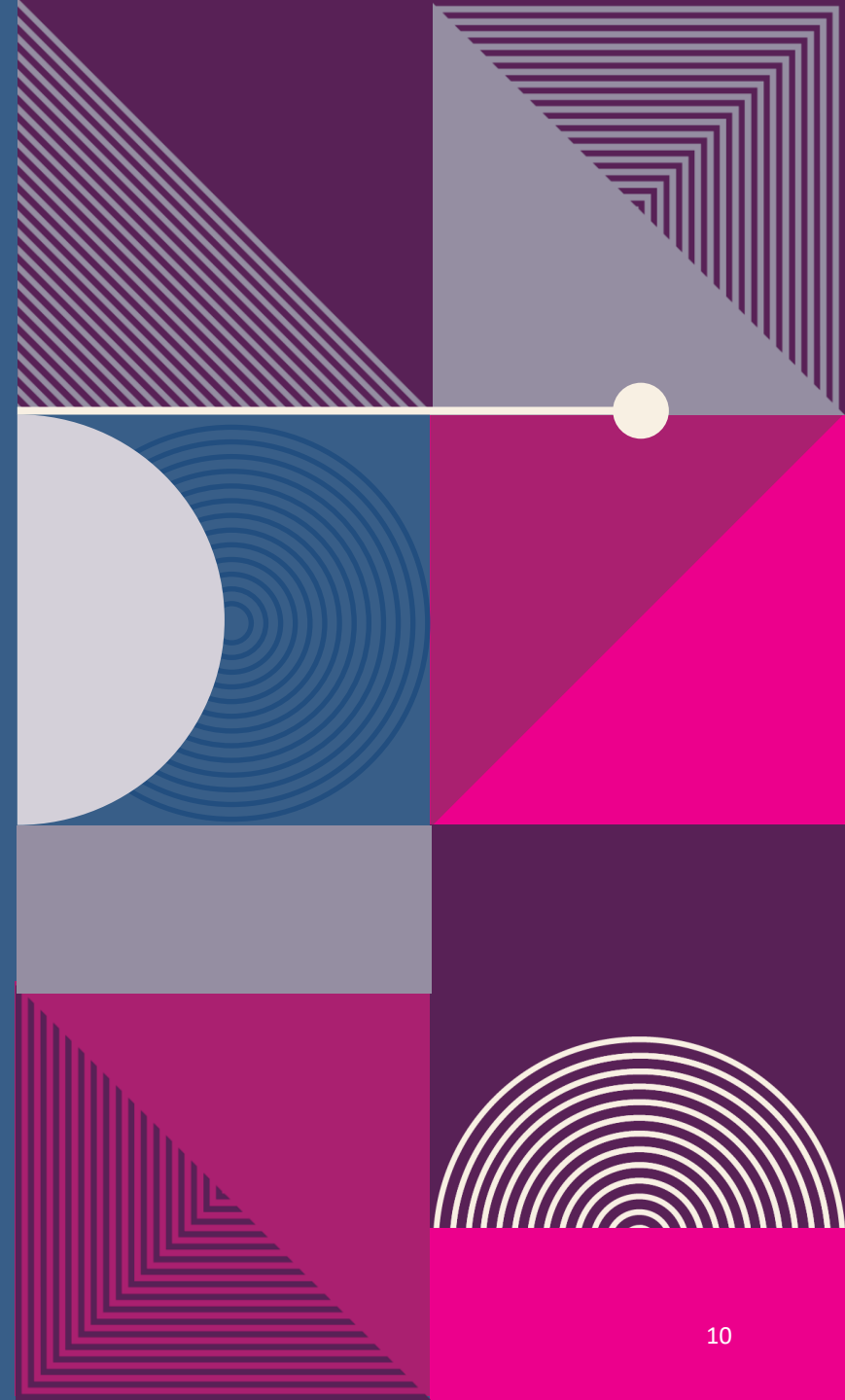
NORDLINGER V. HAHN

505 U.S. 1 (1992)

Responding to rapidly rising real property taxes, California voters approved Proposition 13 embodying "acquisition value" system of taxation.

- Property is reassessed based upon current appraised value of the new construction or change of ownership.
- Two exemptions exist for two types of transfers: exchanges of principal residences by persons over the age of 55 and transfers between parents and children.

With the passage of time, the acquisition-value system created dramatic disparities of the taxes paid by persons owning similar pieces of property.

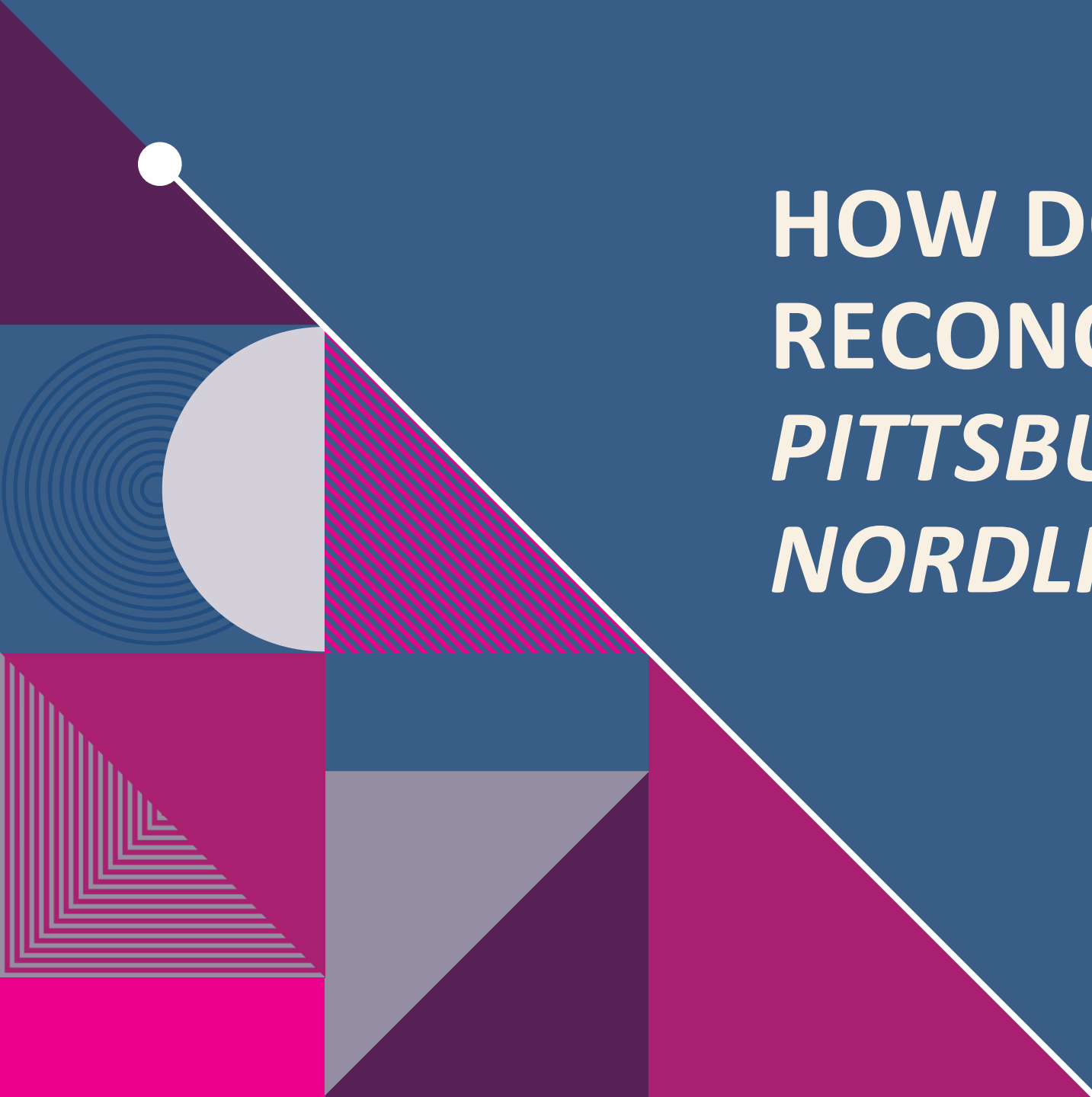


NORDLINGER V. HAHN

Proposition 13 did not violate the Equal Protection Clause because the classes of newer and older owners rationally further a legitimate state interest.

- “In general, the Equal Protection Clause is satisfied so long as there is a plausible policy reason for the classification, the legislative facts on which the classification is apparently based rationally may have been considered to be true by the governmental decisionmaker, and the relationship of the classification to its goal is not so attenuated as to render the distinction arbitrary or irrational”
- “This standard is especially deferential in the context of classifications made by complex tax laws.”





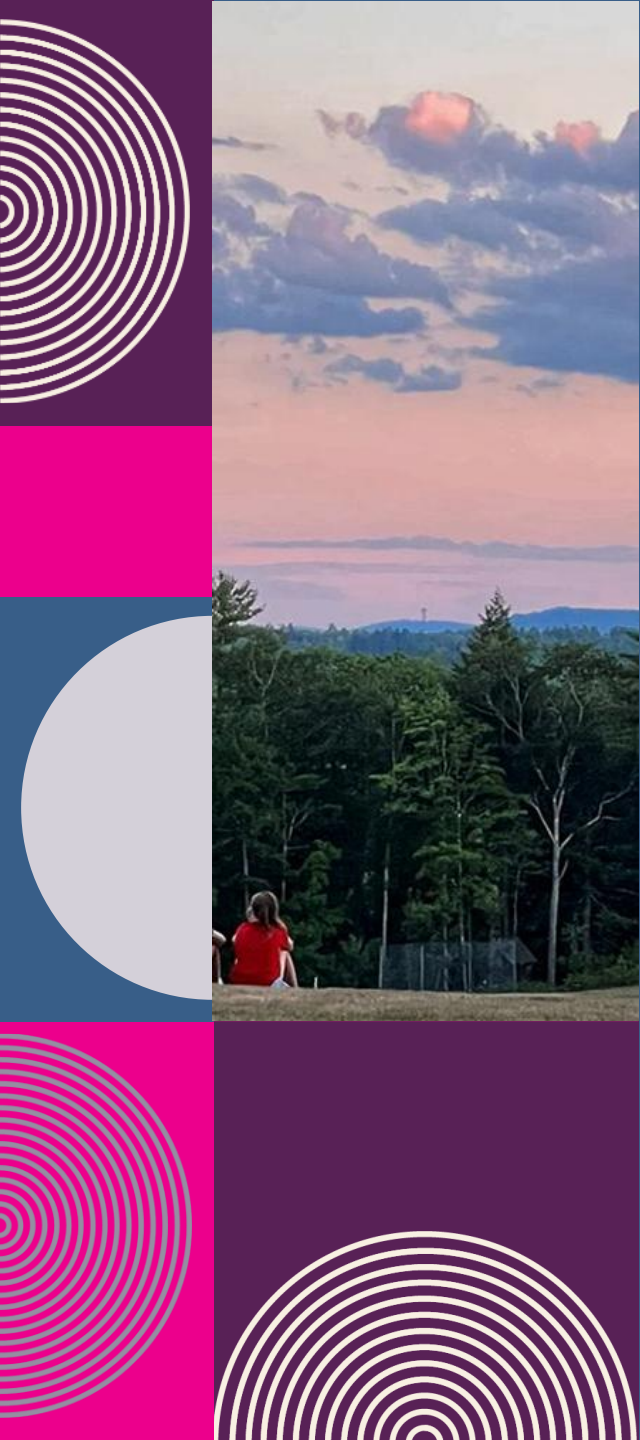
HOW DO YOU
RECONCILE *ALLEGHENY*
PITTSBURGH COAL WITH
NORDLINGER?



THE COMMERCE CLAUSE OF THE UNITED STATES CONSTITUTION

“The Congress shall have Power . . . To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;”

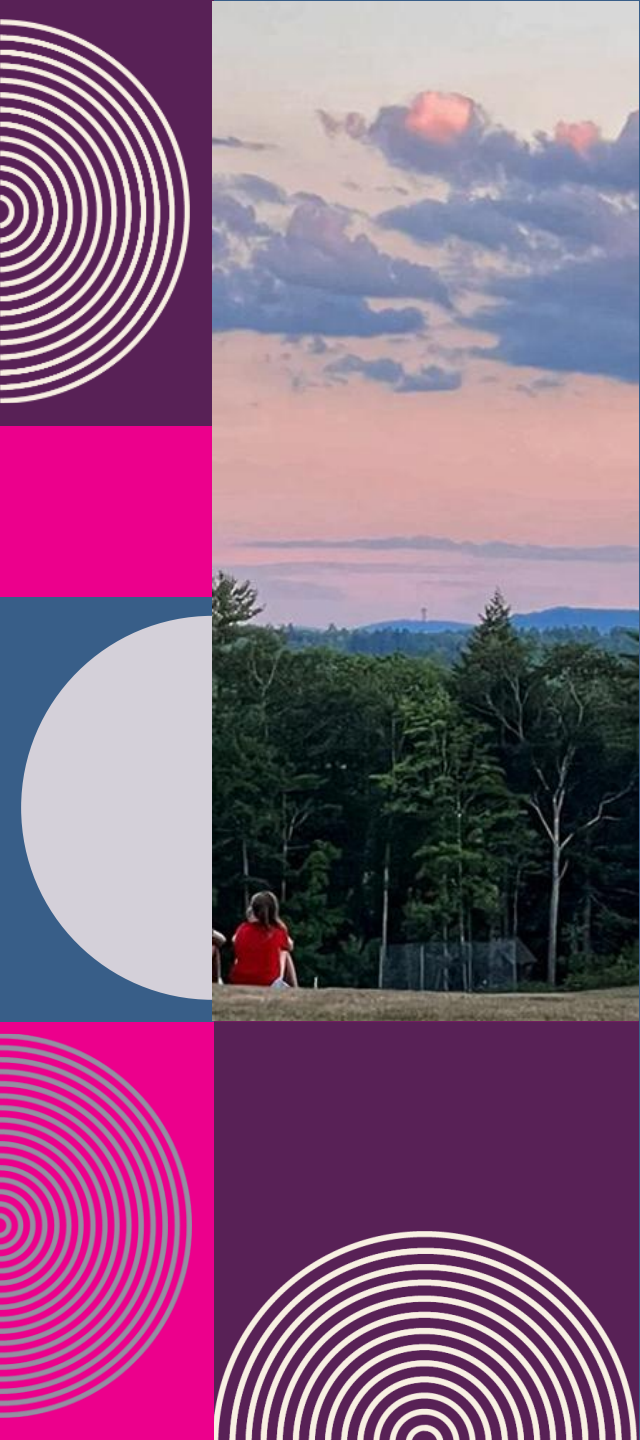
Supreme Court decisions applying the clause to state taxes “have considered not the formal language of the tax statute but rather its practical effect, and have sustained a tax against Commerce Clause challenge when the tax is applied to an activity with a **substantial nexus** with the taxing State, is **fairly apportioned**, **does not discriminate** against interstate commerce, and is **fairly related** to the services provided by the State.” *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274, 279 (1977).



CAMPS NEWFOUND/OWATONNA, INC. V. TOWN OF HARRISON

520 U.S. 564 (1997)

- Nonprofit operates a church camp for children, most of whom are not Maine residents.
- Charitable institutions incorporated in Maine are exempt from tax.
- However, if the nonprofits operate principally for the benefit of Maine nonresidents, only a more limited tax benefit is available. The benefit is available only if its weekly charge for services does not exceed \$30 per person.



CAMPS NEWFOUND/OWATONNA, INC. V. TOWN OF HARRISON

- Petitioner was ineligible for any exemption, because its campers were largely nonresidents and its weekly tuition was roughly \$400 per camper.
- Petitioner's request for refund and its request for a continuing exemption from future taxes, based upon a claim that the exemption violated the Commerce Clause, was rejected.

Held: An otherwise generally applicable state property tax violates the Commerce Clause if its exemption for property owned by charitable institutions excludes organizations operated principally for the benefit of nonresidents.



STATE CONSTITUTION UNIFORMITY CLAUSES



TYPES OF UNIFORMITY CLAUSES

“An examination of the constitutional provisions which may be called basic uniformity clauses reveals nine typical clauses.”

- Wade J. Newhouse, *Constitutional Uniformity and Equality in State Taxation* (1959)



TYPES OF UNIFORMITY CLAUSES

“Type I: Property shall be taxed according to its value.”

Example: Arkansas Const. Art. XVI, Sec. 5(a)

- “All real and tangible personal property subject to taxation shall be taxed according to its value, that value to be ascertained in such manner as the General Assembly shall direct, making the same equal and uniform throughout the State. No one species of property for which a tax may be collected shall be taxed higher than another species of property of equal value,”



TYPES OF UNIFORMITY CLAUSES

“Type II: Property shall be taxed in proportion to its value.”

Example: Nebraska Const. Art. VIII, Sec. 1

- “Taxes shall be levied by valuation uniformly and proportionately upon all real property ... except as otherwise provided in or permitted by this Constitution.”



TYPES OF UNIFORMITY CLAUSES

“Type III: The legislature may impose proportional and reasonable assessments, rates, and taxes upon all persons and estates within the state.”

Example: Massachusetts Const., Pt. Two, Ch. I, Sec. 1, Art. IV

- “And further, full power and authority are hereby given and granted to the said general court, . . . and to impose and levy proportional and reasonable assessments, rates, and taxes, upon all the inhabitants of, and persons resident, and estates lying, within the said commonwealth; and also to impose and levy, reasonable duties and excises, upon any produce, goods, wares, merchandise, and commodities, whatsoever, brought into, produced, manufactured, or being within the same;”



TYPES OF UNIFORMITY CLAUSES

“Type IV: There shall be a uniform rule of taxation.”

Example: New Jersey Const., Art. VIII, Sec. 1(a)

- “Property shall be assessed for taxation under general laws and by uniform rules. All real property assessed and taxed locally or by the State for allotment and payment to taxing districts shall be assessed according to the same standard of value, except as otherwise permitted herein, and such real property shall be taxed at the general tax rate of the taxing district in which the property is situated, for the use of such taxing district.”



TYPES OF UNIFORMITY CLAUSES

“Type V: Taxation shall be equal and uniform.”

Example: Texas Const., Art. VIII, Sec. 1

- “(a) Taxation shall be equal and uniform.
(b) All real property and tangible personal property in this State, unless exempt as required or permitted by this Constitution, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law.”



TYPES OF UNIFORMITY CLAUSES

“Type VI: The legislature shall provide by law for a uniform and equal rate of assessment and taxation.”

Example: Indiana Const., Art. X, Sec. 1

- “Subject to this section, the General Assembly shall provide, by law, for a uniform and equal rate of property assessment and taxation and shall prescribe regulations to secure a just valuation for taxation of all property, both real and personal.”



TYPES OF UNIFORMITY CLAUSES

“Type VII: Taxes shall be uniform upon the same class of subjects.”

Example: Virginia Const., Art. X, Sec. 1

- “All property, except as hereinafter provided, shall be taxed. All taxes shall be levied and collected under general laws and shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax

The General Assembly may define and classify taxable subjects. Except as to classes of property herein expressly segregated for either State or local taxation, the General Assembly may segregate the several classes of property so as to specify and determine upon what subjects State taxes, and upon what subjects local taxes, may be levied.”



TYPES OF UNIFORMITY CLAUSES

“Type VIII: Taxes shall be uniform upon the same class of property.”

Example: Arizona Const., Art. IX, Sec. 1

- “The power of taxation shall never be surrendered, suspended or contracted away. Except as provided by section 18 of this article, all taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax, and shall be levied and collected for public purposes only.”



TYPES OF UNIFORMITY CLAUSES

“Type IX: There shall be a fair distribution of the expense of government.”

Example: Rhode Island Const., Art. I, Sec. 2

- “All free governments are instituted for the protection, safety, and happiness of the people. All laws, therefore, should be made for the good of the whole; and the burdens of the state ought to be fairly distributed among its citizens.”



TYPES OF UNIFORMITY CLAUSES

Three states have no uniformity clause:

- Connecticut,
- Iowa, and
- New York.



MAJOR UNIFORMITY ISSUES

Scope: Does the uniformity clause apply to all taxes, or only property taxes?

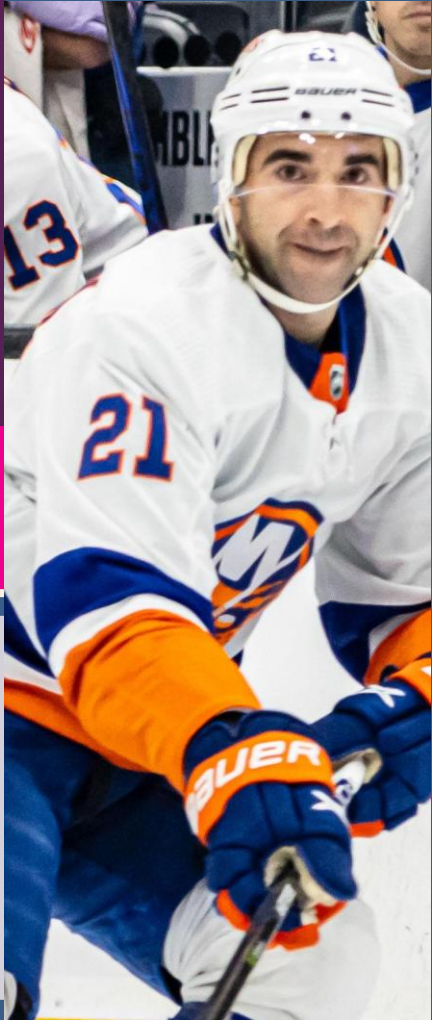
Universality: Must all property (except for constitutionally provided exemptions) be treated subject to tax?

Effective Rate Uniformity: Must all property be subject to the same tax rates and methods of valuation, or can effective rates vary between classes of property?

Valuation: Must property only be taxed by the ad valorem method? Or are specific taxes permitted?

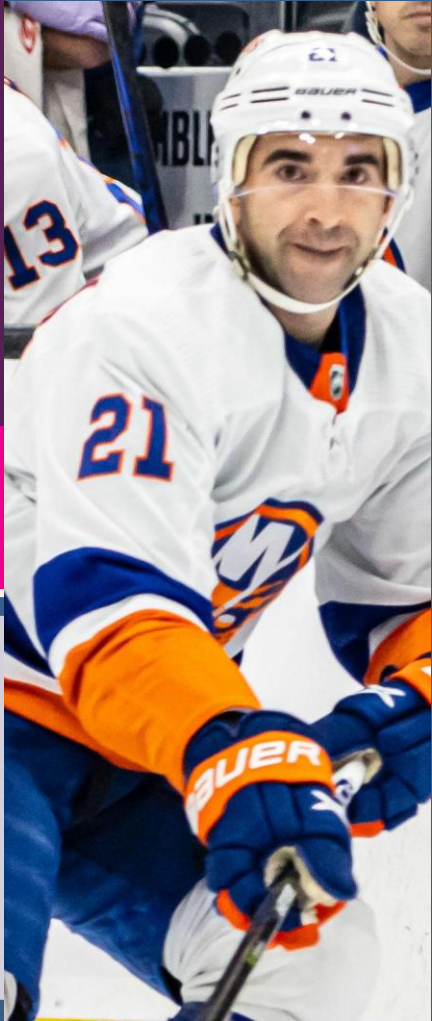


RECENT UNIFORMITY CASES



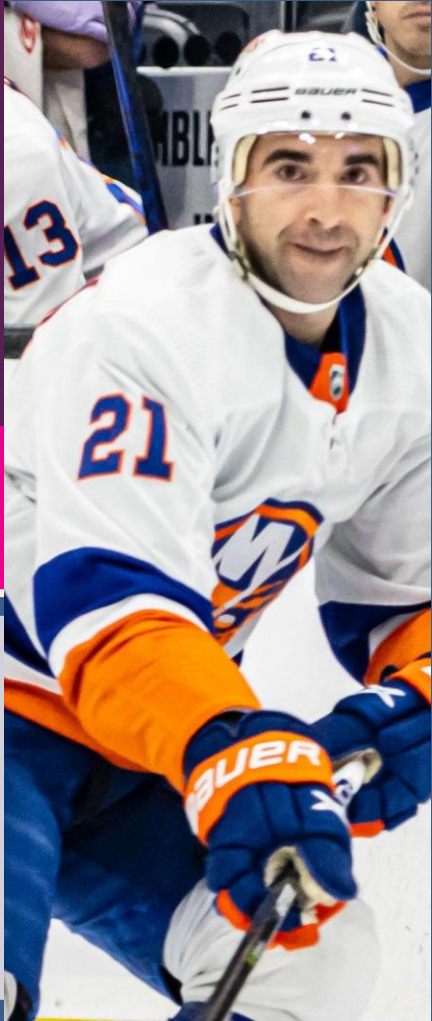
NATIONAL HOCKEY LEAGUE PLAYERS ASS'N V. CITY OF PITTSBURGH

- Challenge to Pittsburgh's 3 percent Facility Tax, which applies solely to nonresidents who earn income making use of the city's facilities (the "Jock Tax").
- Pittsburgh applies a 1 percent Earned Income Tax to residents and nonresidents ineligible for the Facility Tax.
- Residents also pay a 2% school tax that benefits the Pittsburgh School District. Nonresidents are not subject to the school tax.
- Nonresidents affected by the Facility Tax are exempt from the Earned Income Tax.



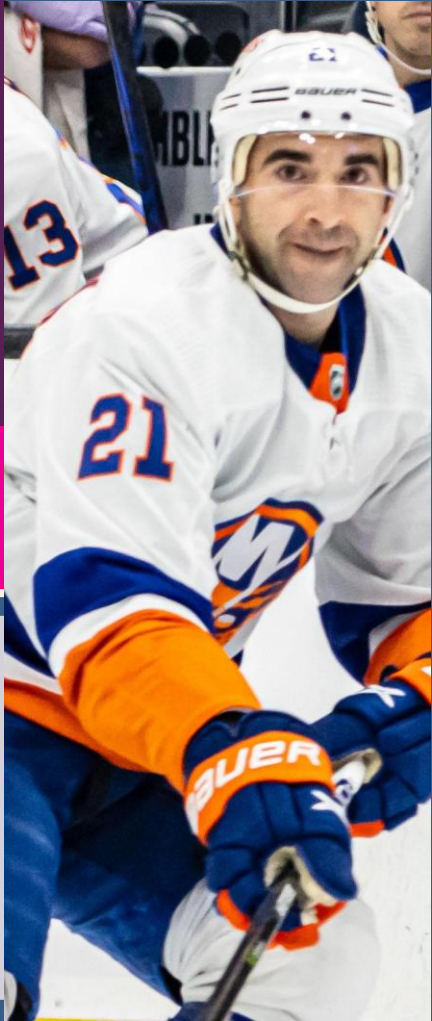
NATIONAL HOCKEY LEAGUE PLAYERS ASS'N V. CITY OF PITTSBURGH

- The trial court held that the Facility Tax makes a facial distinction between residents and nonresidents, as nonresidents who earned income from one of the Facilities were subject to the Facility Tax, while residents, who also earned income from one of the Facilities, were not.
- Thus, nonresident athletes paid a 3% tax while resident athletes paid a 1% EIT.
- The trial court considered the resident/nonresident distinction unreasonable and violative of the Uniformity Clause.



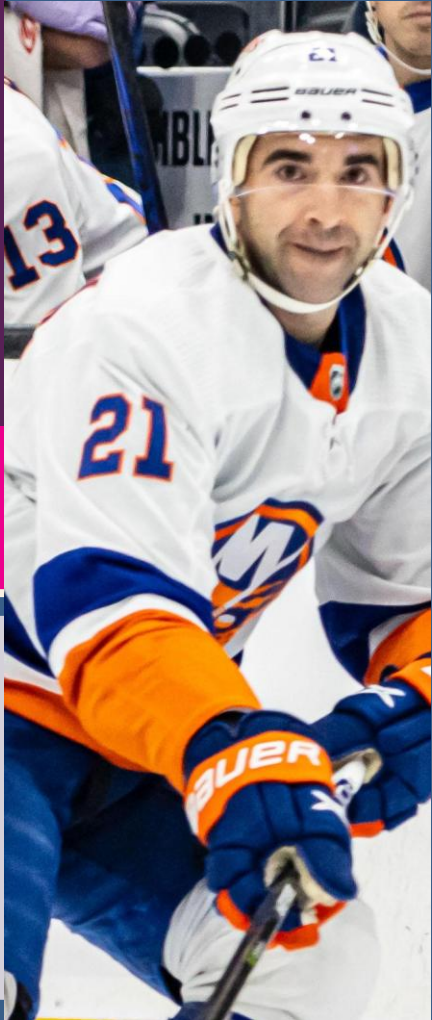
NATIONAL HOCKEY LEAGUE PLAYERS ASS'N V. CITY OF PITTSBURGH

- The Commonwealth Court also found that the Facility Tax violated the Uniformity Clause of the state constitution.
- “The City has failed to provide the requisite concrete justification for treating residents and nonresidents as distinguishable classes that may be subjected to different tax burdens. Rough uniformity is not achieved where only one class of taxpayers – nonresidents – is assessed a 2% tax on income derived from its use of the Facilities.”



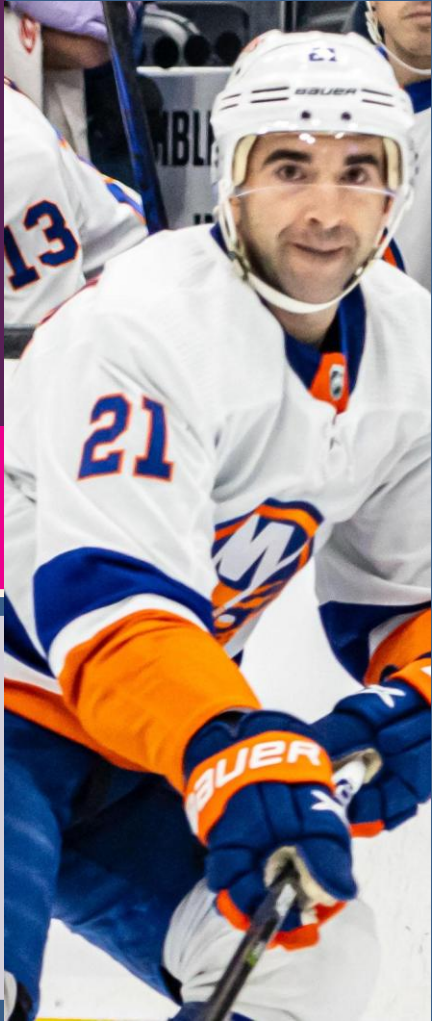
NATIONAL HOCKEY LEAGUE PLAYERS ASS'N V. CITY OF PITTSBURGH

- The PA Supreme Court recently affirmed the Commonwealth Court's opinion.
- “We have stressed that the uniformity clause does not mandate absolute equality or perfect uniformity in taxation. Rather, when faced with a challenge to the validity of a tax classification, we ask whether the classification is based upon some legitimate distinction between the classes such that it provides a non-arbitrary, ‘reasonable and just’ basis for the disparate treatment.”
- “Here, the City does not provide concrete reasons that would justify taxing nonresident athletes and entertainers more than resident athletes and entertainers.”



NATIONAL HOCKEY LEAGUE PLAYERS ASS'N V. CITY OF PITTSBURGH

- The PA Supreme Court clarified that equalizing overall tax burdens is not enough to ensure uniformity.
- “*Minich* did not embrace a ‘functional analysis’ that permits taxing authorities to manufacture uniformity by aggregating distinct taxes—imposed upon distinct classes—into an ‘overall tax’ that is roughly equal. Instead, the *Minich* Court applied established Uniformity Clause principles and reached the conclusion that a facially neutral tax and a facially neutral system of credits (available to both residents and nonresidents alike) did not violate the Uniformity Clause.”



NATIONAL HOCKEY LEAGUE PLAYERS ASS'N V. CITY OF PITTSBURGH

- The PA Supreme Court clarified that equalizing overall tax burdens is not enough to ensure uniformity.
- “*Danyluk* should be understood for the proposition that a city cannot use a tax which, of necessity, only applies to residents to cover up the discriminatory effect of a separate, disuniform tax on nonresidents.”



CALIFORNIA UTILITY PROPERTY TAX CASES

- County of Santa Clara v. Superior Court (Cal. App. 6th 2023)
- Pacific Bell Telephone Co. v. County of Merced (Cal. App. 5th 2025)
- Pacific Bell Telephone Co. v. County of Placer (Cal. App. 3rd 2025)
- Pacific Bell Telephone Co. v. County of Napa (Cal. App. 1st 2025)

Issue: Does Section 19 of Article XIII of the California Constitution, require that the same tax rates be imposed on utility property that are imposed on non-utility property subject to standard ad valorem taxation?



CALIFORNIA UTILITY PROPERTY TAX CASES

California Constitution, Art. XIII, Sec. 19:

“The Board shall annually assess (1) pipelines, flumes, canals, ditches, and aqueducts lying within 2 or more counties and (2) property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the State, and companies transmitting or selling gas or electricity. *This property shall be subject to taxation to the same extent and in the same manner as other property.*” (emphasis added)



COUNTY OF SANTA CLARA V. SUPERIOR COURT

Because the fair market value of real property owned by utilities is typically only a fraction of the actual value it holds for the company, California applies the unit system of valuation (or “going concern” valuation) for the property of utilities at the state level, and the values are allocated out to the localities for taxation.

A number of utilities companies challenged their local assessments as violating Article XIII, sec. 19 of the California Constitution, which provides that utility property “shall be subject to taxation to the same extent and in the same manner as other property.”

The effective tax rates for the utility companies were higher than for non-utilities.



COUNTY OF SANTA CLARA V. SUPERIOR COURT

The court reasoned that the “to the same extent and in the same manner as other property” language in Article XIII, section 19 does not explicitly require parity in the property tax rate applied to centrally assessed property and non-centrally assessed property.

- The court found that it only “describes the extent to which the property shall be subject to taxation, rather than the extent to which it shall be taxed.”
- The court determined that the purpose of article XIII, section 19, had nothing to do with mandating equal tax rates, but instead was to “restor[e] public utility values to the local tax rolls and alleviat[e] the local tax burden.”



PACIFIC BELL TELEPHONE CO. V. COUNTY OF MERCED

“We conclude, as did the Sixth District in *County of Santa Clara v. Superior Court*, that the relevant language in Section 19 does not mandate that the same tax rate must be applied to utility property as is applied to locally assessed property.”

“We find the language in question—‘This property shall be subject to taxation to the same extent and in the same manner as other property’—was intended as an enabling clause, making property taxable that, before, was not taxable.”



PACIFIC BELL TELEPHONE CO. V. COUNTY OF PLACER

“Santa Clara, the case relied on by the parties and the trial court for the demurrer, analyzed only whether the Constitution required equal or identical rates. And the court in *Santa Clara* found article XIII, section 19 does not “[m]andat[e] application of identical tax rates.” Another court in *Merced* reached a similar conclusion, finding article XIII, “[s]ection 19 does not mandate that the same tax rate must be applied to utility property as is applied to locally assessed property.” But neither case discussed *comparability*.” (emphasis in original)



PACIFIC BELL TELEPHONE CO. V. COUNTY OF PLACER

Appellants argue article XIII, “[s]ection 19 contains an unequivocal mandate for comparability in taxation,” and “without comparability in the tax rate, utility property cannot bear the ‘same’ burden of taxation as other property, as [article XIII, s]ection 19 requires.”

“Even assuming comparability is a requirement, appellants do not explain what rate comparability means or what kind of legal standard we or the trial court could articulate to determine whether the County’s rates are constitutionally comparable.”



PACIFIC BELL TELEPHONE CO. V. COUNTY OF NAPA

“[T]he Utilities argue that *Santa Clara* was wrongly decided and ask us to reach a different result. We decline to do so. Based on the language and legislative history of article XIII, section 19, we conclude, like *Santa Clara* and the Fifth District Court of Appeal in *Pacific Bell Telephone Co. v. County of Merced*, that the provision does not contain a requirement that same or “comparable” debt-service tax rates be applied to public utility and nonutility (or common) property and therefore does not render section 100 invalid.”

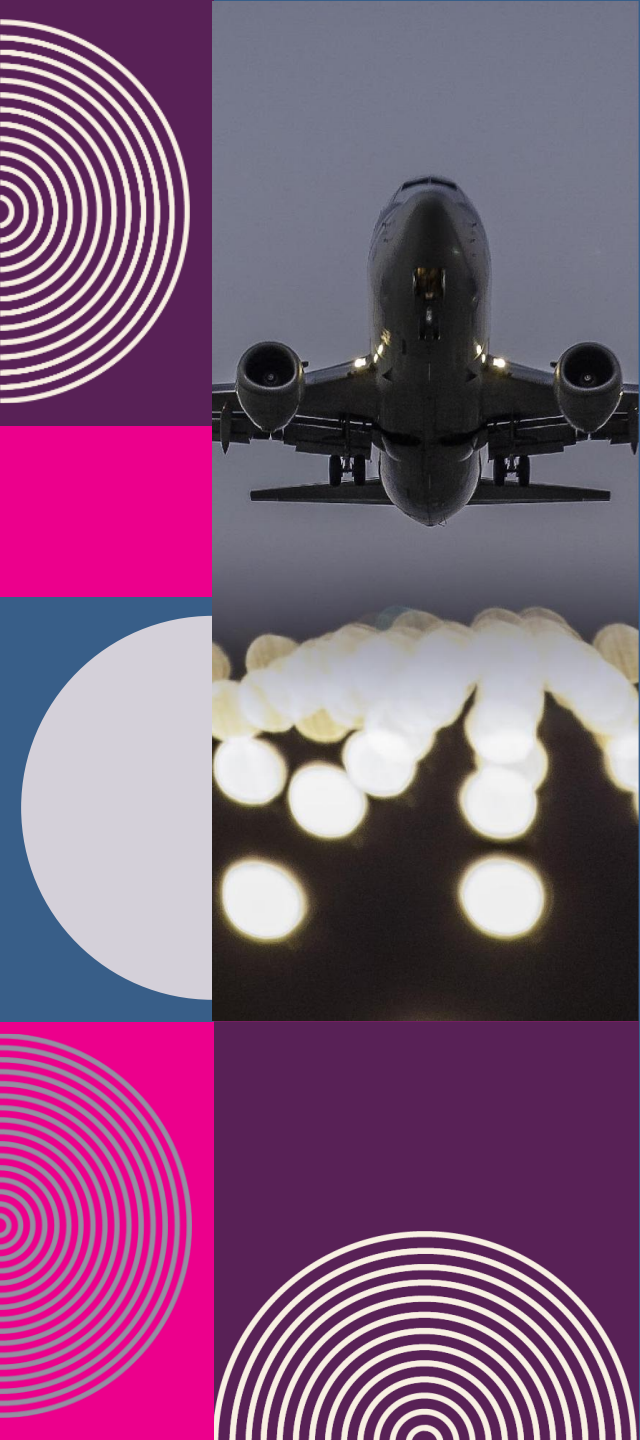


PACIFIC BELL TELEPHONE CO. V. COUNTY OF NAPA

“We further elect to reach and ultimately reject the Utilities’ claim on appeal that section 100’s debt-service tax rates violate the principle of taxation uniformity embodied in section 1 of article XIII of the California Constitution.

California Const. Art. XIII, Sec. 1

- “Unless otherwise provided by this Constitution or the laws of the United States: ‘(a) All property is taxable and shall be assessed at the same percentage of fair market value. When a value standard other than fair market value is prescribed by this Constitution or by statute authorized by this Constitution, the same percentage shall be applied to determine the assessed value.’”

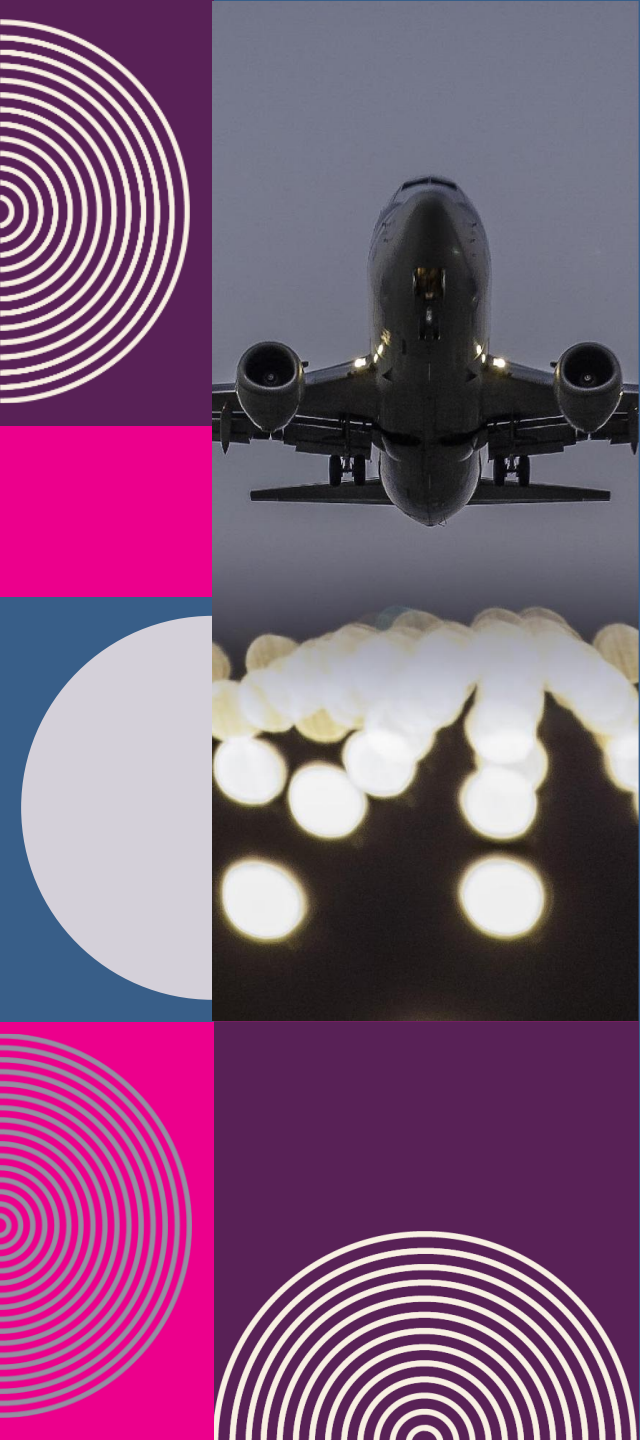


DELTA AIR LINES, INC. V. DEPARTMENT OF REVENUE

In Oregon law, most businesses' property is assessed at the local level based on the value of their real and tangible property. Certain types of businesses, including airlines, are assessed centrally, and the value of their intangible property is also included.

Delta and other taxpayers challenged the central assessment method as violating Oregon's Uniformity Clause.

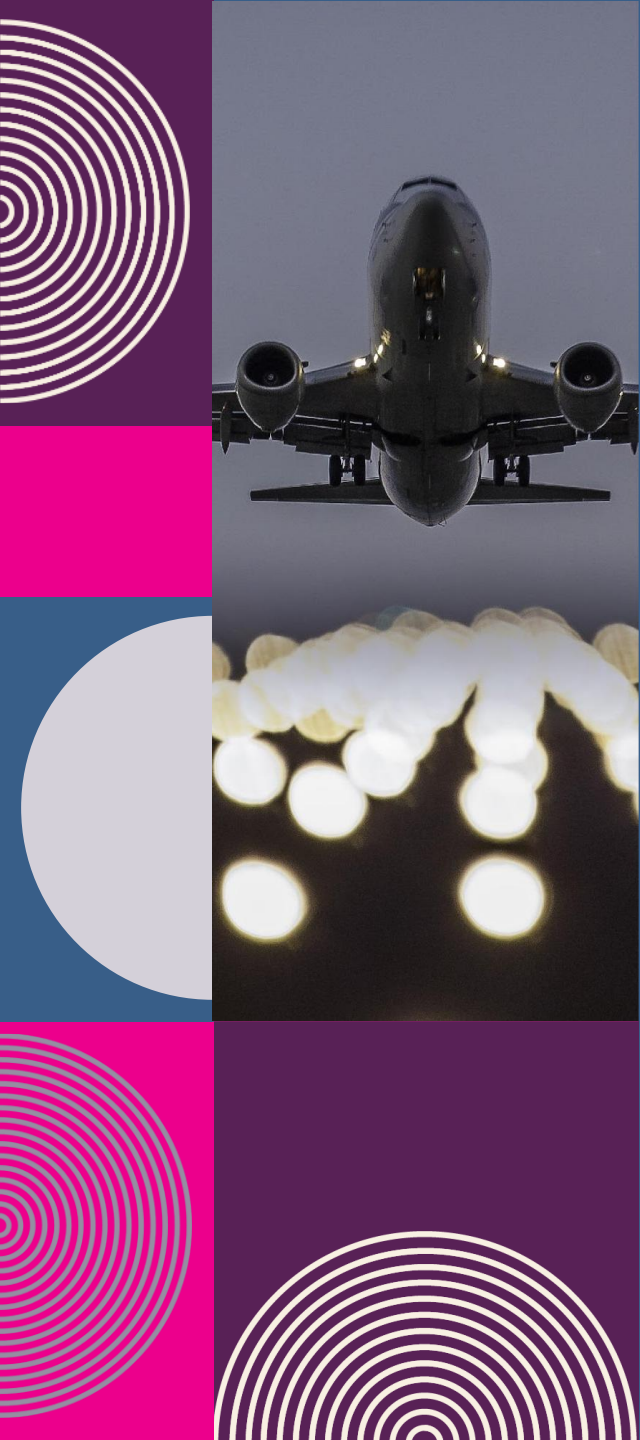
- Ore. Const. Art. I, sec. 32 provides in part: "[A]ll taxation shall be uniform on the same class of subjects within the territorial limits of the authority levying the tax."



DELTA AIR LINES, INC. V. DEPARTMENT OF REVENUE

The Oregon Supreme Court found no violation of the Uniformity Clause, eliding its requirements with those of the state's Equal Privileges and Immunities Clause and the federal Equal Protection Clause.

- “Textually and historically, then, the uniformity provisions would not seem to limit the types of classifications that the government can use in taxation, provided that the classifications are consistent within the territorial limits of the relevant lawmaking body.”
- “The only legal principle unique to the uniformity provisions is the requirement of territorial uniformity.”



DELTA AIR LINES, INC. V. DEPARTMENT OF REVENUE

The Oregon Supreme Court found no violation of the state's Equal Privileges and Immunities Clause.

- “We conclude that the tax on the intangible property of centrally assessed businesses is constitutional. The state has a legitimate purpose in obtaining revenue, and the taxation of intangible property is rationally related to that purpose. The legislature's decision to limit the taxation of intangible property to centrally assessed businesses rationally promotes various legitimate purposes, including administrative efficiency, developing and keeping expertise in valuing such businesses, promoting fairness among the centrally assessed taxpayers, and balancing the expected revenue return against limited departmental resources.”



KIDWELL FAMILY II LLC V. LANCASTER COUNTY BOARD OF EQUALIZATION

Taxpayer brings a challenge to the assessed value of its real property.

Nebraska Court sustains the assessment because taxpayer failed to carry its burden of demonstrating, through clear and cogent evidence, intentional or gross error in the assessment.



KIDWELL FAMILY II LLC V. LANCASTER COUNTY BOARD OF EQUALIZATION

“Uniformity requires that whatever methods are used to determine actual or taxable value for various classifications of real property that the results be correlated to show uniformity. Taxpayers are entitled to have their property assessed uniformly and proportionately, even though the result may be that it is assessed at less than the actual value.”

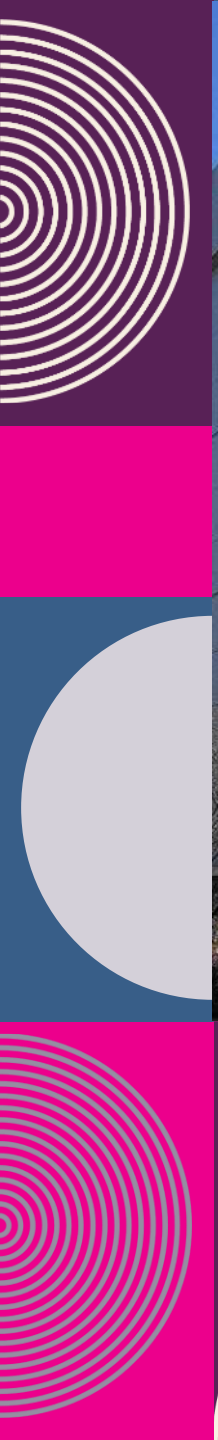
“If taxable values are to be equalized it is necessary for a Taxpayer to establish by clear and convincing evidence that the valuation placed on the property when compared with valuations placed on other similar properties is grossly excessive and is the result of systematic exercise of intentional will or failure of plain legal duty, and not mere errors of judgment. There must be something more, something which in effect amounts to an intentional violation of the essential principle of practical uniformity.”

COLACITTI V. MURPHY

New Jersey law provides a local property tax exemption for hospitals in return for an annual community service contribution (ACSC) based on the number of licensed beds in the hospital.

- The ACSC is meant “to offset the costs of municipal services which directly benefit these hospitals and their employees.” The purpose was to “reimburse counties and municipalities for the cost of public services provided by these levels of government to hospitals, not just public safety services.”

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COLACITTI V. MURPHY

The Court found that the ACSCs were not PILOTs or local property taxes because they were not assessed according to the value of hospital property.

- Thus, they were not subject to the Uniformity Clause, which applies only to property taxes.

Further, the property tax exemption for nonprofit hospitals which leased space to for profit medical caregivers did not violate the state Exemption Clause.

- “[T]he Exemption Clause is not so rigid that the Legislature is without any authority or discretion in the Clause’s application.”



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INTERNATIONAL PAPER V. COUNTY OF ISLE

The Virginia Supreme Court considered a uniformity challenge to a Machine and Tools Tax tax relief program that granted relief to certain taxpayers.

- The County argued that the relief program was not part of the tax scheme and thus not subject to uniformity demands.
- However, the Court, looking to the US Supreme Court's decision in *West Lynn Creamery* and the Supreme Court of Wisconsin's decision in *Torphy*, found that the M&T Tax Relief program was part of the M&T tax scheme and thus subject to uniformity.



INTERNATIONAL PAPER V. COUNTY OF ISLE

“In summary, uniformity requires equality in every aspect of the taxation process. In determining whether application of a tax plan resulted in a non-uniform assessment, we must consider the effect of the tax plan upon those subject to it, rather than the government's stated label for its actions. Exemptions are part of the taxation process.”

“In making a determination as to whether a particular act is part of the taxation process, we consider the factual aspects of a legislative act, such as its intended purpose, its structure and administration, and its factual correlations to the tax it allegedly affects. If such a legislative act is part of the taxation process, we then determine whether such act produces a non-uniform effect among a constitutionally-protected class of taxpayers.”



QUINN V. STATE OF WASHINGTON

Challenge to Washington State's capital gains tax enacted in 2021.

Taxpayers claimed that the capital gains tax was an income tax (and thus a property tax under Washington State precedent) subject the state's uniformity clause.

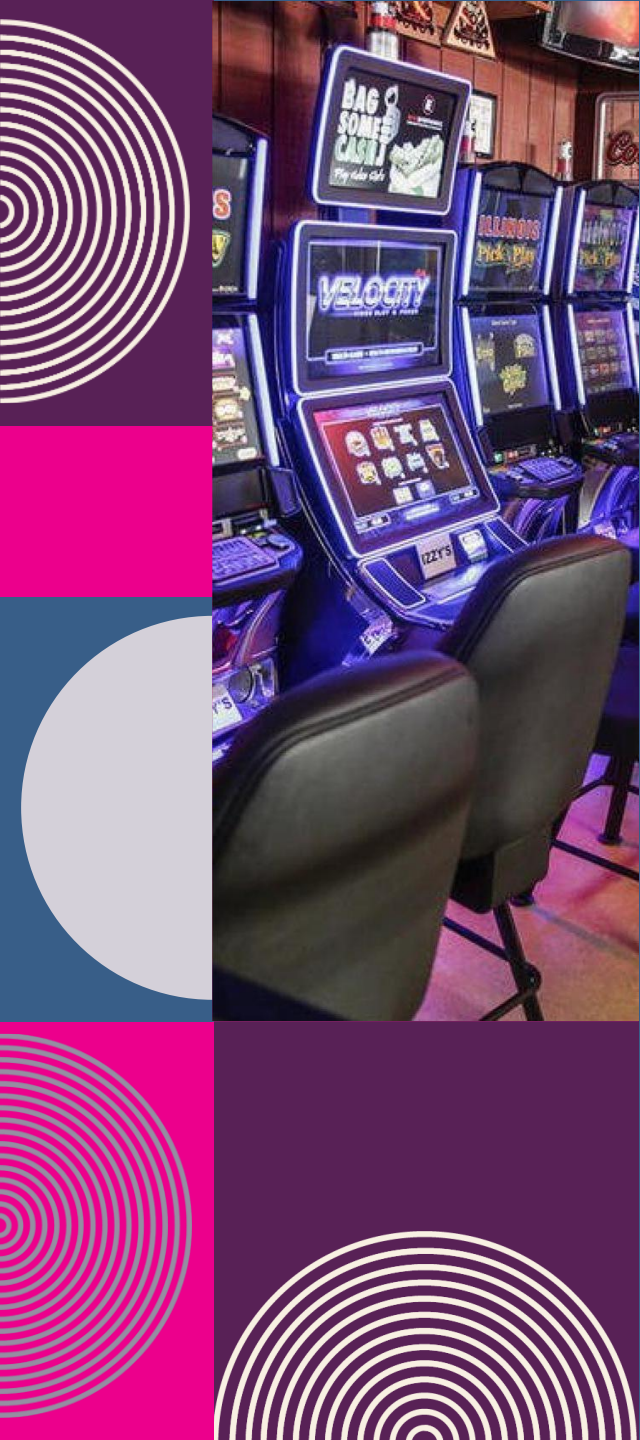
- Income taxes with graduated rates had long been found to violate uniformity in Washington.

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QUINN V. STATE OF WASHINGTON

The Washington Supreme Court found that the capital gains tax was an excise tax, and thus not subject to the strict uniformity requirements applicable to property taxes.

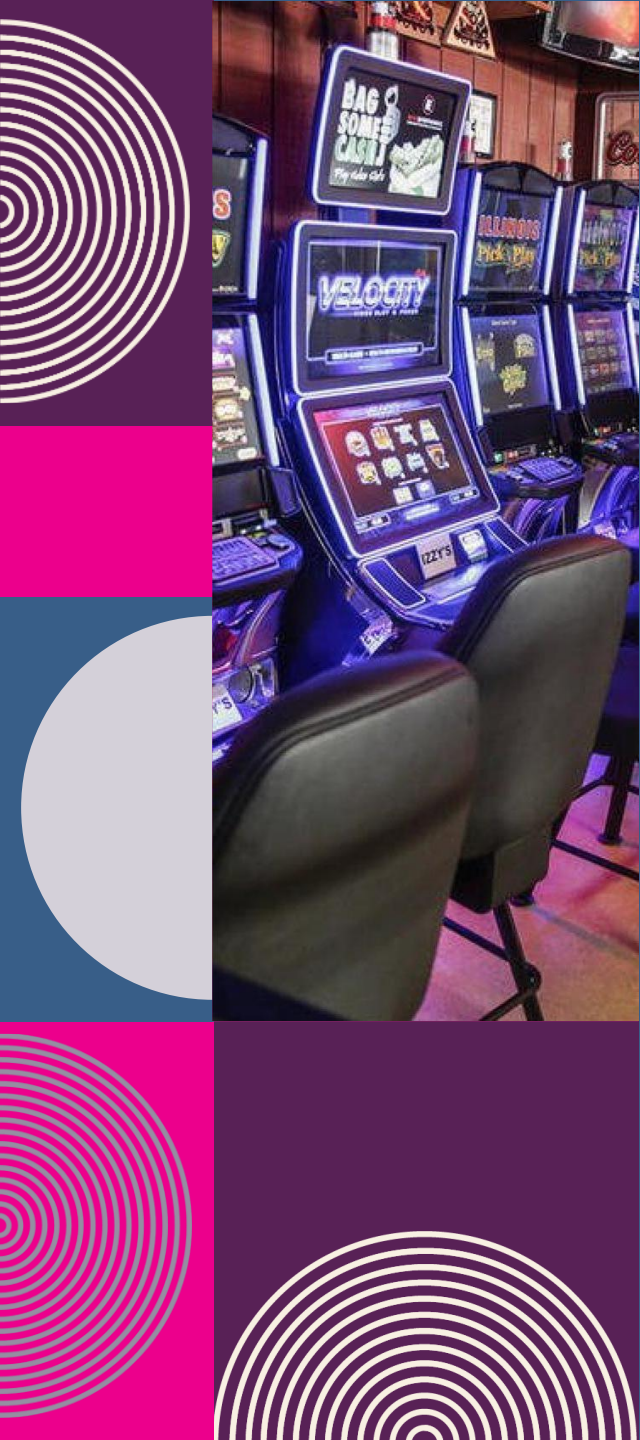
- “The capital gains tax is an excise tax because taxpayers do not owe the capital gains tax merely by virtue of owning capital assets or capital gains, like a property tax. Instead, the tax relates to the exercise of rights ‘in and to property’—namely, the power to sell or transfer capital assets—like an excise.”



ILLINOIS GAMING MACH. OPERATORS ASS'N V. CITY OF WAUKEGAN

The Illinois Gaming Machine Operators Association challenged the City of Waukegan's "push tax" that imposed a tax of one penny per push on players of video gaming terminals.

The IGMOA alleged a violation of the state uniformity clause because the City did not impose a similar tax on operators of automatic amusement machines, and that there was no rational basis for the distinction between terminal operators and the operators of automatic amusement machines.

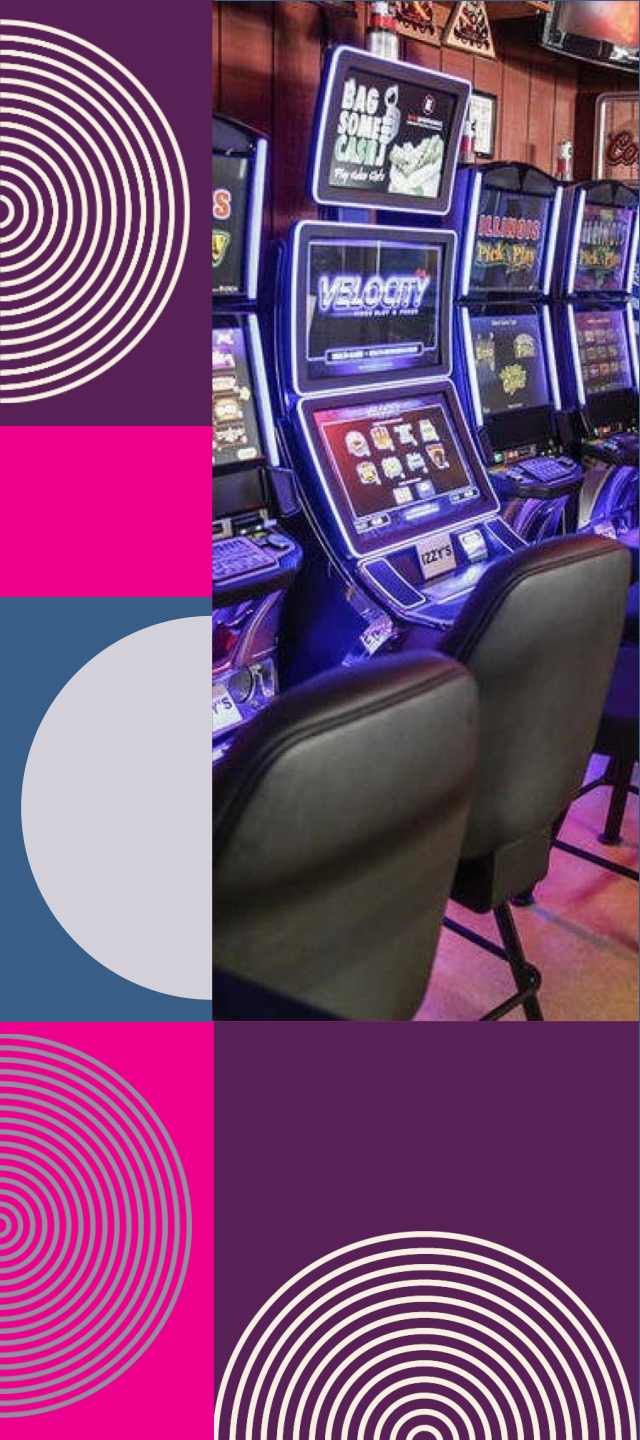


ILLINOIS GAMING MACH. OPERATORS ASS'N V. CITY OF WAUKEGAN

Ill. Const. 1970, art. IX, § 2:

- “In any law classifying the subjects or objects of non-property taxes or fees, the classes shall be reasonable and the subjects and objects within each class shall be taxed uniformly. Exemptions, deductions, credits, refunds and other allowances shall be reasonable.”

“Generally, to survive scrutiny, a nonproperty tax classification must (1) be based on a real and substantial difference between the people taxed and those not taxed and (2) bear some reasonable relationship to the object of the legislation or to public policy.”

The left side of the slide is decorated with a vertical strip. It features a photograph of several slot machines in a casino setting, with one machine prominently displaying the word 'VELOCITY'. To the left of the photo are concentric white circles on a dark purple background, and a solid magenta rectangle. Below the photo is a large white circle on a dark blue background. At the bottom left, there are more concentric white circles on a magenta background and a dark purple background.

ILLINOIS GAMING MACH. OPERATORS ASS'N V. CITY OF WAUKEGAN

“While a municipality must ‘produce a justification’ for its classification, we normally uphold a taxing classification as long as ‘a set of facts ‘can be reasonably conceived that would sustain it.’” Once the municipality produces a justification, the plaintiff then has the burden to persuade the court that the explanation is insufficient as a matter of law or unsupported by the facts.”

Plaintiffs failed to satisfy their burden to show that the asserted justification was unsupported or arbitrary.

CLEAR CHANNEL OUTDOOR LLC V. DIR., DEP'T OF FINANCE OF BALTIMORE CITY



Baltimore imposes an “Outdoor Advertising Tax,” an “excise tax . . . on the privilege of exhibiting outdoor advertising displays in the City.” The Tax is based on the square footage of the advertising space and whether the advertising display changes images during the day.

Clear Channel challenged the tax, in part, as a non-uniform property tax in violation of the Maryland Constitution’s Uniformity Clause.

CLEAR CHANNEL OUTDOOR LLC V. DIR., DEP'T OF FINANCE OF BALTIMORE CITY

The Court found that the tax does not impose an impermissible non-uniform property tax, using a three-part analysis.

“[T]o determine if a tax [is] an excise versus a property tax . . . we examine [1] the designation placed upon the tax by the Legislature, [2] the subject matter of the tax, and [3] the incidents of the tax, i.e., the manner in which it is assessed and the measure of the tax.”

CLEAR CHANNEL OUTDOOR LLC V. DIR., DEP'T OF FINANCE OF BALTIMORE CITY

The tax was determined to be an excise tax, not subject to the uniformity clause, under these factors.

- First, the City labeled the tax an excise tax.
- Second, the subject matter of the tax was outdoor advertising. The Tax was “not a burden directly imposed on persons or property,’ as no tax would be required if a billboard is blank.”
- Third, the measure of the Tax “is not based on the assessment of the property value of the outdoor advertisement or any other such valuation of property.”



TYSONS CORNER HOTEL PLAZA LLC V. FAIRFAX COUNTY

Tysons Corner Hotel Plaza LLC challenged the assessment of a Hyatt hotel with a restaurant as being for more than fair market value and as being nonuniform with how other similar properties were assessed.

Localities enjoy a “presumption of correctness” in their assessments of real property. To rebut this presumption, a taxpayer must prove by a preponderance of the evidence that (1) “the property in question” is “valued at more than its fair market value” or “the assessment is not uniform in its application” and (2) the assessment “was not arrived at in accordance with generally accepted appraisal practices . . . and applicable Virginia law relating to valuation of property.”



TYSONS CORNER HOTEL PLAZA LLC V. FAIRFAX COUNTY

Even taking the evidence presented in the most favorable light to TCHP, the taxpayer failed to demonstrate that the assessments, even if they overvalued the property, deviated from generally accepted appraisal practices.

- “Indeed, our Supreme Court has cautioned that ‘[t]he value of property is a matter of opinion and there must necessarily be left a wide room for the exercise of opinion, otherwise courts will be converted into assessing boards.’”



TYSONS CORNER HOTEL PLAZA LLC V. FAIRFAX COUNTY

“Uniformity, however, does not require ‘perfect equality,’ nor does the ‘mere inequality in the result’ of a property tax, alone, violate uniformity. Instead, uniform taxation is ‘the principle that those who are similarly situated should be treated in a like manner by the law.’”

To prove nonuniformity, “it must plainly appear that the appraisal upon which the assessment was made is out of line generally with appraisals of other neighborhood properties, which in character and use bear some relation to that of the taxpayer.”

The Court found that the County had assessed the Hyatt properties using the same approach as with other properties, including a nearby Marriott property.

A decorative graphic on the left side of the slide. It features a vertical strip with a purple-to-pink gradient. Overlaid on this are several concentric white circles of varying sizes. To the right of this strip is a photograph of a modern house with a dark roof and a covered patio area with white chairs and a stone fireplace. The house is set against a sunset sky.

RICE V. FULTON COUNTY

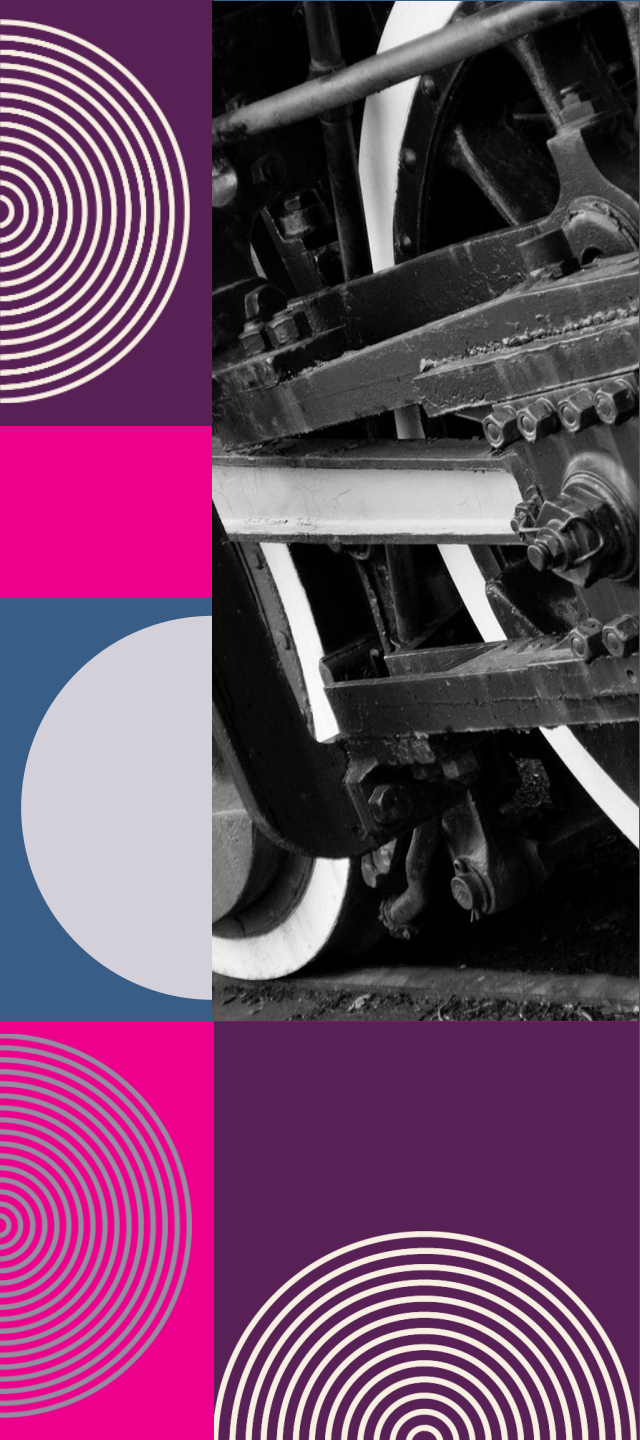
A group of Fulton County taxpayers filed a proposed class action lawsuit against Fulton County and many of its municipalities alleging that they had used an illegal method for assessing property taxes on homes sold in 2015.

- Taxpayers alleged the County and municipalities had used a “sales chasing” method which focused on recently sold properties for reassessment in violation of the state’s Uniformity Clause.

RICE V. FULTON COUNTY

The Georgia Court of Appeals found that the class action did not suffer from a lack of commonality or predominance.

- Despite the fact that the individual properties would need to be examined to determine damages, the central legal question to all of the cases was whether the County and municipalities' method of assessment violated the Uniformity Clause, and that issue predominated any individual issues.



IDAHO POWER CO. V. IDAHO STATE TAX COMM'N

Idaho reduced the valuation of railroad property—a type of “operating property” in the state, which constituted a class of property for tax purposes—to satisfy the demands of the federal 4-R act.

Other owners of operating property challenged their assessments as nonuniform.

The Idaho Supreme Court determined that the 4-R act did not preempt the state Uniformity Clause, and held in favor of the taxpayers on this issue, remanding to the trial court.

An abstract geometric design on the left side of the slide. It features a dark blue background with various geometric shapes and patterns. A white circle is positioned near the top left. Below it, a light blue semi-circle is visible. To the right of the semi-circle, there are concentric circles. Further down, there are several overlapping squares and triangles in shades of blue, purple, and pink. Some of these shapes contain patterns of concentric lines or dots. A white diagonal line runs from the top left towards the bottom right, separating the abstract design from the text area.

CONCLUDING THOUGHTS

An abstract geometric design on the left side of the slide. It features a dark blue background with various geometric shapes and patterns. A white circle is positioned near the top left. Below it, a light blue semi-circle is visible. To the right of the semi-circle, there is a pink triangle with diagonal lines. Below the semi-circle, there is a pink square with a pattern of concentric lines. To the right of the square, there is a light blue square. Below the square, there is a pink triangle. To the right of the triangle, there is a dark blue triangle. The overall design is modern and minimalist.

THANK YOU