

**Summary of Significant Idaho Constitutional
Provisions
Relating to Property Taxation**

For the
Property Tax Interim Committee
June 29, 2005

The state constitution is not a delegation of power to legislature but is a limitation on power it may exercise.

The Legislature has plenary power in all matters for legislation except those prohibited by the Constitution.

Look carefully at two particular provisions relating to property tax

Article VII. § 2 Revenue to be provided by taxation.

Article VII § 5 Taxes to be uniform -- Exemptions.

Idaho Constitution
Article VII. FINANCE AND REVENUE

§ 2 Revenue to be provided by taxation.

The legislature shall provide such revenue as may be needful, by levying a tax by valuation, so that every person or corporation shall pay a tax in proportion to the value of his, her, or its property, except as in this article hereinafter otherwise provided. The legislature may also impose a license tax, both upon natural persons and upon corporations, other than municipal, doing business in this state; also a per capita tax: provided, the legislature may exempt a limited amount of improvements upon land from taxation.

Idaho Constitution
Article VII. FINANCE AND REVENUE

§ 2 Revenue to be provided by taxation.

The legislature shall provide such revenue as may be needful, by **levying a tax by valuation**, so that every person or corporation shall pay a tax in proportion to the value of his, her, or its property, except as in this article hereinafter otherwise provided. The legislature may also impose a license tax, both upon natural persons and upon corporations, other than municipal, doing business in this state; also a per capita tax: provided, the legislature may exempt a limited amount of improvements upon land from taxation.

Idaho Constitution
Article VII. FINANCE AND REVENUE

§ 2 Revenue to be provided by taxation.

The legislature shall provide such revenue as may be needful, by levying a tax by valuation, so that every person or corporation **shall pay a tax in proportion to the value of his, her, or its property**, except as in this article hereinafter otherwise provided. The legislature may also impose a license tax, both upon natural persons and upon corporations, other than municipal, doing business in this state; also a per capita tax: provided, the legislature may exempt a limited amount of improvements upon land from taxation.

Article VII. § 2 requires:

1. A tax by value
2. Paid in proportion to the value of the property.

§ 5 Taxes to be uniform -- Exemptions.

All taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal: provided, that the legislature may allow such exemptions from taxation from time to time as shall seem necessary and just, and all existing exemptions provided by the laws of the territory, shall continue until changed by the legislature of the state: provided further, that duplicate taxation of property for the same purpose during the same year, is hereby prohibited.

§ 5 Taxes to be uniform -- Exemptions.

All taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal: provided, that the legislature may allow such exemptions from taxation from time to time as shall seem necessary and just, and all existing exemptions provided by the laws of the territory, shall continue until changed by the legislature of the state: provided further, that duplicate taxation of property for the same purpose during the same year, is hereby prohibited.

§ 5 Taxes to be uniform -- Exemptions.

All taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax, and shall be **levied and collected under general laws**, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal: provided, that the legislature may allow such exemptions from taxation from time to time as shall seem necessary and just, and all existing exemptions provided by the laws of the territory, shall continue until changed by the legislature of the state: provided further, that duplicate taxation of property for the same purpose during the same year, is hereby prohibited.

§ 5 Taxes to be uniform -- Exemptions.

All taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal: provided, that the legislature may allow such exemptions from taxation from time to time as shall seem necessary and just, and all existing exemptions provided by the laws of the territory, shall continue until changed by the legislature of the state: provided further, that duplicate taxation of property for the same purpose during the same year, is hereby prohibited.

§ 5 Taxes to be uniform -- Exemptions.

All taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal: provided, that **the legislature may allow such exemptions from taxation from time to time as shall seem necessary and just**, and all existing exemptions provided by the laws of the territory, shall continue until changed by the legislature of the state: provided further, that duplicate taxation of property for the same purpose during the same year, is hereby prohibited.

§ 5 Taxes to be uniform -- Exemptions.

All taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal: provided, that the legislature may allow such exemptions from taxation from time to time as shall seem necessary and just, and all existing exemptions provided by the laws of the territory, shall continue until changed by the legislature of the state: provided further, that **duplicate taxation of property for the same purpose during the same year, is hereby prohibited.**

Article VII. § 5 requires:

1. Uniform on same class of subjects within the taxing district's limits.
2. Levied and collected under general laws.
3. Just valuation of all property
4. Legislature may allow exemptions as seem necessary and just
- 5 Double taxation is prohibited

.

**Idaho Supreme Court
Interpretations of these provisions**

“Value”

and

“Just valuation of all property”

In our opinion the valuation of taxable property for assessment purposes must reasonably approximate the fair market value of the property in order to effectuate the policy embodied in Id. Const. Art. 7, § 5. *I. e.*, that each taxpayer's property bear the just proportion of the property tax burden. . . . Although different types of property are by their nature more amenable to valuation by one method of appraisal than another the touchstone in the appraisal of property for Ad valorem tax purposes is the fair market value of that property, and fair market value must result from application of the chosen appraisal method. An arbitrary valuation is one that does not reflect the fair market value or full cash value of the property and cannot stand,

Merris v. Ada County 100 Idaho 59 (1979).

“Value”

and

“Just valuation of all property”

In our opinion the valuation of taxable property for assessment purposes **must reasonably approximate the fair market value** of the property in order to effectuate the policy embodied in Id. Const. Art. 7, § 5. *I. e., that each taxpayer's property bear the just proportion of the property tax burden. . . .* Although different types of property are by their nature more amenable to valuation by one method of appraisal than another the touchstone in the appraisal of property for Ad valorem tax purposes is the fair market value of that property, and fair market value must result from application of the chosen appraisal method. An arbitrary valuation is one that does not reflect the fair market value or full cash value of the property and cannot stand,

Merris v. Ada County 100 Idaho 59 (1979).

“Value”

and

“Just valuation of all property”

In our opinion the valuation of taxable property for assessment purposes must reasonably approximate the fair market value of the property in order to effectuate the policy embodied in Id. Const. Art. 7, § 5. *I. e.*, that each taxpayer's property bear the just proportion of the property tax burden. . . . Although different types of property are by their nature more amenable to valuation by one method of appraisal than another **the touchstone in the appraisal of property for Ad valorem tax purposes is the fair market value of that property, and fair market value must result from application of the chosen appraisal method.** An arbitrary valuation is one that does not reflect the fair market value or full cash value of the property and cannot stand,

Merris v. Ada County 100 Idaho 59 (1979).

“Value”

and

“Just valuation of all property”

In our opinion the valuation of taxable property for assessment purposes must reasonably approximate the fair market value of the property in order to effectuate the policy embodied in Id. Const. Art. 7, § 5. *I. e.*, that each taxpayer's property bear the just proportion of the property tax burden. . . . Although different types of property are by their nature more amenable to valuation by one method of appraisal than another the touchstone in the appraisal of property for Ad valorem tax purposes is the fair market value of that property, and fair market value must result from application of the chosen appraisal method. **An arbitrary valuation is one that does not reflect the fair market value or full cash value of the property and cannot stand,**

Merris v. Ada County 100 Idaho 59 (1979).

“Uniform on same class of subjects within the taxing district’s limits”

A constitutional rule of uniform ad valorem taxation forbids legislative classifications of property for the purpose of imposing a greater burden of ad valorem taxation on one class than on another; that is, all property not exempt from taxation must be assessed at a uniform percentage of actual cash value, and a single fixed rate of taxation must apply against all taxable property.

[T]he uniformity clause of Art. VII, § 5, of the Constitution, as well as the due process clause of the United States Constitution, prohibits the singling out of one taxpayer's property for more burdensome taxation than applies to like property within the taxing jurisdiction.

Idaho Telephone Co. v. Baird, 91 Idaho 425, 423 P.2d 337 (1967).

“Uniform on same class of subjects within the taxing district’s limits”

A constitutional rule of uniform ad valorem taxation forbids legislative classifications of property for the purpose of imposing a greater burden of ad valorem taxation on one class than on another; that is, **all property not exempt from taxation must be assessed at a uniform percentage of actual cash value, and a single fixed rate of taxation must apply against all taxable property.**

[T]he uniformity clause of Art. VII, § 5, of the Constitution, as well as the due process clause of the United States Constitution, prohibits the singling out of one taxpayer's property for more burdensome taxation than applies to like property within the taxing jurisdiction.

Idaho Telephone Co. v. Baird, 91 Idaho 425, 423 P.2d 337 (1967).

All property *not exempt from taxation*

1. must be assessed at a uniform percentage of actual cash value and
2. a single fixed rate of taxation must apply against all taxable property.

“Paid in proportion to the value of the property.”

We interpret the language of Art. VII, § 2 - 'every person * * * shall pay a tax in proportion to the value of his, her, or its property * * *' - as meaning that every property owner shall receive equal treatment under the ad valorem tax laws; for example, if owner A possesses \$100.00 of property which is taxed \$1.00, then owner B with \$400.00 of taxable property shall be taxed in the same proportion, or \$4.00.

Idaho Telephone Co. v. Baird, 91 Idaho 425, 423 P.2d 337 (1967).

“Paid in proportion to the value of the property.”

We interpret the language of Art. VII, § 2 - 'every person * * * shall pay a tax in proportion to the value of his, her, or its property * * *' - as meaning that every property owner shall receive equal treatment under the ad valorem tax laws; for example, **if owner A possesses \$100.00 of property which is taxed \$1.00, then owner B with \$400.00 of taxable property shall be taxed in the same proportion, or \$4.00.**

Idaho Telephone Co. v. Baird, 91 Idaho 425, 423 P.2d 337 (1967).

Proportionate taxation

Proportionate taxation cannot exist without uniformity of assessment.

Chastain's Inc. v State Tax Commission 72 Idaho 344 (1952)

Two cases illustrate the principles

Idaho Telephone Co. v. Baird, 91 Idaho 425,
(1967).

Simmons v Idaho State Tax Commission,
111 Idaho 343 (1986)

Idaho Telephone Co. v. Baird

Assessment ratios per 1965 law:

Real property assessed at 10% of full cash value

Personal property assessed at 20% of full cash value

Operating property assessed at 30% of full cash value.

Thus:

			Market Value	Ratio	Assessed Value	Tax Lewy	Tax
		Real Prpperty	\$100,000	10%	\$10,000	1%	\$100
		Personal Property	\$100,000	20%	\$20,000	1%	\$200
		Operating Property	\$100,000	30%	\$30,000	1%	\$300

			Market Value	Ratio	Assessed Value	Tax Levy	Tax
			\$100,000	10%	\$10,000	1%	\$100
		Real Property	\$100,000	10%	\$10,000	1%	\$100
		Personal Property	\$100,000	20%	\$20,000	1%	\$200
		Operating Property	\$100,000	30%	\$30,000	1%	\$300

Contention ***rejected*** by Idaho Supreme Court

1. The tax levy is uniform at 1% on the taxable value of all property.
2. All property in the same class is uniformly taxed.

- Q. Why isn't this uniform taxation on "same class of subjects"?
- A. "Although different types of property are by their nature more amenable to valuation by one method of appraisal than another the touchstone in the appraisal of property for Ad valorem tax purposes is the fair market value of that property."

Property classifications are for appraisal purposes and are to facilitate – not avoid – taxing property proportionally to its market value.

Principles in *Idaho Telephone Co. v. Baird*

1. All property not exempt from taxation must be assessed at a uniform percentage of actual cash value.
2. A single fixed rate of taxation must apply against all taxable property.

What about exemptions?

Article 7 § 5:

[T]he legislature may allow such exemptions from taxation from time to time as shall seem necessary and just. . . .

“This extremely broad and deferential language in no way suggests property may be wholly, but not partially, exempt.

Simmons v Idaho State Tax Commission, 111 Idaho 343 (1986)

Simmons v Idaho State Tax Commission

Homeowners exemption as in 1983:

Lesser of 50% or \$50,000 of value of owner occupied residential improvement.

Improvement	Market Value	Exemption	Taxable Value	Tax levy rate	Tax
Residential	\$100,000	\$50,000	\$50,000	1%	\$500
Commercial	\$100,000	0	\$100,000	1%	\$1,000

“While the effect of initial assessment of owner-occupied residential property at rates differing from income producing property may differ little in substance from an initial uniform assessment of both properties, followed by a partial exemption of the residential property, the state constitution contemplates such a distinction.”

Prohibited by *Idaho Telephone* case:

	Market Value	Limitation on Value	Assessed Value	Tax Levy	Tax
Type A					
Property	\$100,000	50%	\$50,000	1%	\$500
Type B					
Property	\$100,000	0	\$100,000	1%	\$1,000

Permitted by *Simmons* case:

	Market Value	Partial Exemption	Assessed Value	Tax Levy	Tax
Type A					
Property	\$100,000	50%	\$50,000	1%	\$500
Type B					
Property	\$100,000	0	\$100,000	1%	\$1,000

Uniformity plus exemptions equals tax shifts

“[T]he correct rule is that where property is exempt from taxation in whole or in part . . . the increased burden thereby cast upon property not so favored shall be borne ratably and without discrimination . . .”

Washington Water Power Co. v. Shoshone County
270 F. 377 (1921)

Assume a county with only three properties
and an annual budget of \$3,000

		Market	Lewy	Tax
		Value		
Property one		\$100,000	0.01	\$1,000
Property two		\$100,000	0.01	\$1,000
Property three		\$100,000	0.01	\$1,000
County tax base		\$300,000		\$3,000
County budget	\$3,000			
County levy	0.01			
(\$3,000/ 300,000)				

		Market Value	Lewy	Tax
Property one		\$100,000	0.015	\$1,500
Property two (exempt)		\$0	0.000	\$0
Property three		\$100,000	0.015	\$1,500
County tax base		\$200,000		\$3,000
County budget	\$3,000			
County levy				
(\$3,000/ 200,000)				

Some practical examples from the past:

A simplified hypothetical under a 1% limitation

(A limitation of all property taxes on a single property to 1%)

	Property one	Property two
County levy	0.50%	0.50%
City A levy	0.60%	
City B levy		0.40%
Totals	1.10%	0.90%

Reduce taxes on Property One to 1%

	Property one	Property two
County levy	0.45%	0.50%
City A levy	0.55%	
City B levy		0.40%
Totals	1.00%	0.90%

County levy is not “uniform . . . within the territorial limits, of the authority levying the tax” as required by Art 7 § 5.

One hypothetical solution – Also reduce taxes on Property Two to maintain uniformity

	Property one	Property two
County levy	0.45%	0.45%
City A levy	0.55%	
City B levy		0.40%
Totals	1.00%	0.85%

County levy is “uniform . . . within the territorial limits, of the authority levying the tax” as required by Art 7 § 5.

(This is the hypothetical “proportional scale down method” used by the State Tax Commission’s estimates of the effects of a 1% initiative.)

Uniformity and value growth limits.

Assume a statutory 2% growth limit on taxable value

	Year One		Year Two			
	Market Value	Tax at 1%	Market Value	Taxable Value	Tax at 1%	Tax in Proportion to Value
Property One	\$100,000	\$1,000	\$102,000	\$102,000	\$1,020	1%
Property Two	\$100,000	\$1,000	\$105,000	\$102,000	\$1,020	0.97%

Constitutional questions:

1. Does “every person or corporation shall pay a tax in proportion to the value of his, her, or its property” as required by Art 7 § 2?
2. What if Property Two received a partial exemption from tax of \$3,000?

Mathematical perfection is not the goal of uniformity

“While practical uniformity is the constitutional goal, absolute uniformity is an unattainable ideal.”

Justus v. Board of Equalization of Kootenai County
101 Idaho 743 (1980)

Some pertinent factors:

the limitations of time and staff;
the nature and extent of existing inequities in the tax rolls;
the extent to which such existing inequities are being rectified;
the amount and duration of temporary disparities;
available alternatives.

Double Taxation.

“The prohibition contained in that section against duplicate taxation was undoubtedly directed against the taxing of the same property twice during the same year for the same purpose, while other like and similar property is taxed only once during the same period for the same purpose”

Humbird Lumber Co. v. Kootenai County
10 Idaho 490 (1904)

Double Taxation.

“The prohibition contained in that section against duplicate taxation was undoubtedly directed against the **taxing of the same property twice during the same year for the same purpose**, while other like and similar property is taxed only once during the same period for the same purpose”

Humbird Lumber Co. v. Kootenai County
10 Idaho 490 (1904)

Double Taxation Example

Taxing same property to owner and to lessee.

Double taxation is not:

Imposing property tax on property while imposing a license tax on the owner.

Overlapping levies (City and County levies on same property)

Other Constitutional Provisions.

Art. VII, § 8

“The power to tax corporations or corporate property, both real and personal, shall never be relinquished or suspended, and all corporations in this state or doing business therein, shall be subject to taxation for state, county, school, municipal, and other purposes, on real and personal property owned or used by them, and not by this constitution exempted from taxation within the territorial limits of the authority levying the tax.”

Art. VII, § 8

“The power to tax corporations or corporate property, both real and personal, shall never be relinquished or suspended, and **all corporations in this state or doing business therein, shall be subject to taxation for state, county, school, municipal, and other purposes, on real and personal property owned or used by them,** and not by this constitution exempted from taxation within the territorial limits of the authority levying the tax.”

Art. VII, § 8

“The power to tax corporations or corporate property, both real and personal, shall never be relinquished or suspended, and all corporations in this state or doing business therein, shall be subject to taxation for state, county, school, municipal, and other purposes, on real and personal property owned or used by them, and not by this constitution exempted from taxation within the territorial limits of the authority levying the tax.”

Means legislature may not barter away by contract the sovereign power to tax corporations. Legislature may exempt property owned by corporations.

Williams v Baldrige, 48 Idaho 618 (1930)

Art. VII, § 6

The legislature shall not impose taxes for the purpose of any county, city, town, or other municipal corporation, but may by law invest in the corporate authorities thereof, respectively, the power to assess and collect taxes for all purposes of such corporation.

Legislature authorizes local governments to levy property taxes but the local government imposes them by exercising that authority.

The legislature may not itself levy property taxes for local governments.

Art. VII, § 6

The property of the United States, except when taxation thereof is authorized by the United States, the state, counties, towns, cities, villages, school districts, and other municipal corporations and public libraries shall be exempt from taxation; . . .

Applies to:

Property taxes – not other taxes

Property owned by governments – Not to:

Property leased by governments or

Possessory interests in governmental property.

QUESTIONS