NEBRASKA ADMINISTRATIVE CODE

Title 350 - Nebraska Department of Revenue, Property Assessment Division ~~and Taxation~~

Chapter 41 - In Lieu of Tax Regulations

Effective Date ~~1/3/07~~

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Title 350 - Nebraska Department of Revenue, Property Assessment Division ~~and Taxation~~
Chapter 41 - In Lieu of Tax Regulations

REG-41-001 PURPOSE

001.01 These regulations govern the in lieu of tax payments on real property by certain state agencies, political subdivisions and public corporations as authorized by the Constitution and the laws of the State of Nebraska.

(Neb. Rev. Stat. Section 18-2137, R.R.S. 1997, Neb. Rev. Stat. Sections 70-651.01, 70-651.03, 70-651.05, 70-653.01~~,~~ and 77-211, ~~and 77-702,~~ R.R.S. 2003, Neb. Rev. Stat. Section 37-335, R.R.S. 2004, ~~and~~ Neb. Rev. Stat. Sections 13-509, 77-1315 and 77-1510, R.S. Supp., 2006 and Neb Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-41-002 DEFINITIONS

002.01 In lieu of tax shall mean a payment received as substitute for a property tax.

002.02 Political subdivision shall include villages, cities of all classes, counties, school districts, public power districts, any airport authority created by any county, city, or village pursuant to law, or any joint airport authority, and all other units of local government, including entities created by local public agencies pursuant to the Interlocal Cooperation Act. The definition of political subdivision is contained in Neb. Rev. Stat. Section 13-509.

002.03 Housing agency shall mean a body corporate and politic for the purpose of making provisions for the preservation of the public health, safety, morals, and welfare by facilitating sanitary housing conditions.

002.04 Body corporate and politic shall mean a public corporation governed by certain laws for the common good.

002.05 Public power district shall mean a public corporation organized under or subject to Chapter 70, article 6, and engaged in the generation, transmission, or distribution of electric power and energy and which has the power to issue indebtedness.

002.06 Supportive medical services shall mean nursing, surgical, anesthesia, laboratory, diagnostic radiology, pharmacy, dietary, X-ray, rehabilitation and psychiatric services.

(Neb. Rev. Stat. Sections 71-1575~~,~~ and 77-212, ~~and 77-702,~~ R.R.S. 2003, ~~and~~ Neb. Rev. Stat. Sections 13-509, 13-903, and 70-601, R.S. Supp., 2006 and Neb Rev. Stat. Section 77-702, R.S. Supp., 2007.)

REG-41-003 NEBRASKA GAME AND PARKS COMMISSION

003.01 The Game and Parks Commission shall annually make in lieu of tax payments for land acquired for wildlife management purposes. The payments shall be the same as what the real property taxes would have been if the land was privately owned. The Commission shall make the payments to the county treasurer of the county where the land is located. In lieu of tax payments by the Commission shall be exempt from penalty or interest for late payments.

003.02 The county treasurer shall distribute the in lieu of tax payments to the political subdivisions of the tax district in which the land has situs. The distribution shall be in the same manner as other real property taxes collected within the tax district.

003.03 The land shall be valued annually by the assessor based upon the use of the land at the time of acquisition by the Game and Parks Commission. Use at the time of acquisition shall mean, for example the classification of the land pursuant to the Agricultural Land and Horticultural Land Assessment Regulations, Chapter 14, such as irrigated land, dryland, grassland and/or wasteland. The assessor shall determine the use at the time of acquisition. The assessor shall value the land in a manner that equalizes the land with other land under that use as of January 1. Such valuation shall apply only to land and shall not apply to any improvements.

003.04 On or before June 1 and in a manner similar to other notices, the assessor shall send notice to the Game and Parks Commission for each parcel of wildlife management land which has been assessed at a value different than in the previous year.

003.05 The Game and Parks Commission may protest the assessed valuation of the land to the county board of equalization, in the same manner as other real property is protested pursuant to Neb. Rev. Stat. Section 77-1502. The county board shall afford the Commission the same due process as is given other property valuation protests.

003.06 The Game and Parks Commission may appeal the action of the county board of equalization to the Tax Equalization and Review Commission pursuant to Neb. Rev. Stat. Section 77-5013.

003.07 The valuation attributed to wildlife management land shall not be included in the certification of valuation to the political subdivisions for levying purposes pursuant to Neb. Rev. Stat. Section 13-509. The assessor

shall report all information concerning the in lieu of tax as required by the Property Tax Administrator on the Abstract of Assessment and the Certificate of Taxes Levied Report.

(Neb. Rev. Stat. Section 37-335, R.R.S. 2004, ~~Neb. Rev. Stat. Sections 77-702 and 77-1613.01, R.R.S. 2003 and~~ Neb. Rev. Stat. Sections 13-509, 77-1502~~,~~ 77-1510, and 77-5013, ~~77-1514,~~ R.S. Supp., 2006 and Neb. Rev. Stat. Section 77-702, 77-1514 and 77-1613.01, R.S. Supp., 2007.)

REG-41-004 POWER DISTRICTS AND CORPORATIONS

004.01 Every public power district and irrigation district that was organized to provide electricity and paid in lieu of tax in 1957 shall continue to pay annually that same amount of property taxes assessed against said property in 1957 so long as it owns said property.

004.02 The county treasurer receiving the 1957 in lieu of tax shall distribute the payment to the political subdivisions and the state based upon the 1957 distribution.

004.03 Any public power district or irrigation district that sells electricity at retail within an incorporated city or village shall by April 1 of each year, make an in lieu of tax payment to the county treasurer of the county in which the city or village is located. The in lieu of tax payment shall be five percent (5%) of the gross retail sales collected from within the city or village, for the previous calendar year less the amount of the 1957 in lieu of tax that was allocated to the city or village.

004.04 The county treasurer receiving the five (5%) percent gross in lieu of tax shall distribute the payment to the city or village from which the retail revenues were collected, the school district located in that city or village and to the county. The distribution shall be based upon the proportionate share the individual levies in the preceding year bore to the total of such levies.

004.05 Public power and irrigation districts are subject to the motor vehicle taxes and fees imposed under Neb. Rev. Stat. Sections 60-3,186 ~~60-3002~~ and 60-3,190 ~~60-3007~~.

004.06 Property of public power districts and irrigation districts that is leased to a private party for purposes other than a public purpose as defined in Regulation Property Owned by the State and Governmental Subdivisions, shall be subject to taxation as if the property was owned by the lessee. See Property Owned by the State and Governmental Subdivisions Regulation, Chapter 15.

004.07 The assessor shall obtain information concerning the in lieu of taxes from the county treasurer and report such information as required by the Property Tax Administrator on the Certificate of Taxes Levied Report.

(Neb. Rev. Stat. Sections 60-3,186, 60-3,190, 70-651.01, 70-651.03, 70-651.04~~,~~ and 70-651.05, ~~77-702 and 77-1613.01,~~ R.R.S. 2003, 77-702 and 77-1613.01, R.S. Supp., 2007.)

REG-41-005 CITY OR VILLAGE ELECTRIC DISTRIBUTION SYSTEM

005.01 Any city or village that has purchased or acquired an electric distribution system prior to June 10, 1947, from a public power district or irrigation district for use within the city or village may pay an in lieu of tax.

005.02 Should the city or village desire to pay an in lieu of tax, the payment shall equal the sum of the last in lieu of tax paid by the public power district or irrigation district from whom the distribution system was purchased.

005.03 The county treasurer to whom an in lieu of tax payment is made by a city or village pursuant to this regulation, shall distribute said payment to the state, county, city, village or school district in the same amounts as were last distributed when the system was owned by the public power district or irrigation district.

005.04 The assessor shall obtain information concerning the in lieu of taxes from the county treasurer and report such information as required by the Property Tax Administrator on the Certificate of Taxes Levied Report.

(Neb. Rev. Stat. Sections 70-653.01~~,~~ and 70-653.02, ~~77-702 and 77-1613.01,~~ R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702 and 77-1613.01, R.S. Supp., 2007.)

REG-41-006 HOUSING AGENCIES

006.01 Housing agencies may pay an in lieu of tax to cover the costs of services provided by various political subdivisions. The in lieu of tax payment shall never exceed the cost of the services, improvements or facilities furnished by the political subdivisions.

006.02 The in lieu of tax payment shall be made to the county treasurer of the county where the agency is located. The distribution by the county treasurer shall be based upon what each subdivision's levy is to the total of all the levies of the subdivisions that could have levied against the property.

006.03 The assessor shall obtain information concerning in lieu of taxes from the county treasurer and report such information as required by the Property Tax Administrator on the Certificate of Taxes Levied Report.

(Neb. Rev. Stat. Section~~s~~ 71-1590, ~~77-702 and 77-1613.01,~~ R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702 and 77-1613.01 R. S. Supp., 2007.)

REG-41-007 HOSPITALS

007.01 Any hospital which provides buildings or office space to anyone engaged in private business shall collect from the tenant sufficient rent to pay an in lieu of tax. Such hospital shall make the in lieu of tax payment to the county treasurer for distribution to the political subdivisions.

007.02 The county treasurer shall allocate the in lieu of tax payment to each political subdivision that could have levied upon the property had it not been exempt from property taxes. Each political subdivision shall receive a portion of the payment based upon its levy compared to the combined levy of all the subdivisions that could have levied against the property.

007.03 Space provided for supportive medical services to hospital patients shall be exempt from the in lieu of tax.

007.04 The assessor shall obtain information concerning the in lieu of taxes from the county treasurer and report such information as required by the Property Tax Administrator on the Certificate of Taxes Levied Report.

(Neb. Rev. Stat. Sections 77-211~~,~~ and 77-212, ~~77-702 and 77-1613.01,~~ R.R.S. 2003 and Neb. Rev. Stat. Sections 77-702 and 77-1613.01, R.S. Supp., 2007.)

REG-41-008 STATE AND GOVERNMENTAL SUBDIVISIONS

008.01 Unleased property of the state and governmental subdivisions that is not being used or being developed for a public purpose may be subject to an in lieu of tax. See Property Owned by the State and Governmental Subdivisions Regulations, Chapter 15.

008.02 The in lieu of tax payment shall be paid to state agencies and governmental subdivisions providing public safety, rescue and emergency services, and road or street construction or maintenance services to the property.

008.02A Any property of the state or a governmental subdivision as described in REG-41-008.01 will be subject to the in lieu of tax even though all the services to the property are provided by the owner.

008.03 The in lieu of tax shall be based upon a proportionate share of each state agency's or governmental subdivision's cost for providing the services as outlined in REG-41-008.02. A governing body after a hearing and a majority vote, may adopt a general policy by ordinance or resolution for determining the amount of in lieu of tax. Such ordinance shall still result in an equitable contribution for the cost of providing the services to the property.

008.04 The state agency or governmental subdivision that owns a property that is subject to an in lieu of tax, shall negotiate written agreements with the state agencies or governmental subdivisions that are providing public safety, rescue and emergency services, and road or street construction or maintenance services, as to the amount of in lieu of tax payable to each. Such in lieu of tax payments shall be considered as revenue for budget purposes.

008.05 If a written agreement is not obtained on a property, with all entities involved, the property will be subject to assessment by the assessor for property taxes.

008.06 All in lieu of tax agreements shall be filed with the assessor on or before February 15.

(~~Neb. Rev. Stat. Section 77-702, R.R.S. 2003 and~~ Neb. Rev. Stat. Section~~s~~ 77-202, ~~and 77-202.12,~~ R.S. Supp., 2006 and Neb. Rev. Stat. Sections 77-202.12 and 77-702, R.S. Supp., 2007.)

REG-41-009 COMMUNITY DEVELOPMENT AUTHORITY

009.01 Whenever a Community Development Authority purchases or acquires real property pursuant to Neb. Rev. Stat. Sections 18-2101 to 18-2144, it shall annually, so long as it owns such property, pay in lieu of taxes. The in lieu of tax shall be equal to the amount of property taxes levied against the property for the year prior to the purchase or acquisition of the real property by the authority.

009.01A The county board of equalization may in any year subsequent to the purchase or acquisition of real property by the authority, determine an amount of in lieu of taxes to be paid by the Community Development Authority, in place of the amount of property taxes levied against the property for the year prior to acquisition by the authority.

009.02 The in lieu of taxes shall be paid to the state and the political subdivisions that make up the tax district in which the property is located.

009.03 The assessor shall obtain information concerning the in lieu of taxes from the county treasurer and report such information as required by the Property Tax Administrator on the Certificate of Taxes Levied Report.

(Neb. Rev. Stat. Section 18-2137, R.R.S. 1997 and Neb. Rev. Stat. Section 77-702, R.S. Supp., 2007~~R.R.S. 2003.~~)