

# MAINE STATE LEGISLATURE

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April 2, 1976

Honorable Edward H. Mackel  
House of Representatives  
State House  
Augusta, Maine

Dear Representative Mackel:

On March 29, 1976, you provided this office with a copy of an article relating to property taxes and requested our opinion as to the constitutionality of two proposals advocated therein.

The first question posed was whether each acre of unproductive, undeveloped land in private (as differentiated from corporate) ownership could be valued for tax purposes at \$1.00 per acre, both by the State and the municipality it is in?

Without having the actual specifics of the legislative proposal, it is difficult to reach any definitive view of the constitutionality of such an undertaking. We would observe that Article IX, Section 8 of the Maine Constitution provides the Legislature with considerable flexibility in establishing valuations for property taxes to be assessed to farms and agricultural lands, timberland and woodlands; other open space lands and lands used for game management or wildlife sanctuaries. We expect that many of the so-called unproductive, undeveloped lands discussed in the proposal would be within these categories. That being the case, the Legislature could establish statutory valuations based on current use, and if the current use was no use, a valuation at or near \$1.00 an acre might be constitutionally sustainable under the exceptions specified in Section 8. Again, however, we emphasize that this conclusion would be very tentative without a more specific proposal to address.

The other element of the proposal suggests that the \$1.00 per acre valuation be applied to individuals but not to corporations. Without more facts, we cannot give an opinion on whether the distinction would violate constitutional equal protection requirements.

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The second question you pose is whether residential properties all over Maine could be valued for tax purposes not at current market value but at the figure of the latest sale, or, if new, the estimated market value of any buildings on up to one acre of the land on which they sit, anything more than one acre being valued at \$1.00 per acre. The result of this provision would be widely differing valuations for essentially similar properties based on the relative date of sale of the properties (e.g. whether the last sale was, for example, 1920 or 1975). The exceptions in Article IX, Section 8, would not appear to apply to such residential properties except those which may be portions of farms. Therefore, the initial requirement of Section VIII becomes applicable, that is: "All taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally, according to the just value thereof."

This requirement of equal assessment of similar properties would appear to be violated by the proposal which would base the valuation on the price of the latest sale. There must be general uniformity of rates, (C. F. Kittery Electric Co. v. Assessors of Town of Kittery, 219 A.2d 728 (Me. 1966), Spear v. City of Bath, 125 Me. 27 (1925); Brewer Brick Co. v. Brewer, 62 Me. 62 (1873)). Thus differing rates for essentially similar properties are prohibited.

Sincerely,

DONALD G. ALEXANDER  
Deputy Attorney General

DGA:jg