

# The Constitutional Uniformity Requirement

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## Original NC Uniformity Provisions 1868 Constitution

### Art. V, Sect. 3

Laws shall be passed, taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise; and, also, all real and personal property, according to its true value in money.

### Art. VII, Sect. 9

All taxes levied by any county, city, town or township shall be uniform and ad valorem upon all property in the same, except property exempted by this Constitution.

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## Current Uniformity Provision 1971 Constitution

### Art. V, Sect. 2(2)

Only the General Assembly shall have the power to classify property for taxation, which power shall be exercised only on a ~~State-wide basis and shall not be delegated~~. No class of property shall be taxed except by uniform rule, and every classification shall be made by general law uniformly applicable in every county, city and town, and other unit of local government.

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### NC Constitution's Uniformity Provision

- 1. Property Tax Rates:
  - One property tax rate per jurisdiction\*
  
- 2. Property Tax Exemptions ("Classifications"):
  - Created by the General Assembly
  - Apply uniformly across the state

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### Tax Rate Uniformity

- *Anderson v. City of Asheville* (NC Supreme Ct., 1947)
  - City may not levy 3 different property tax rates in 3 different zones of the city
  
- 1971 Constitution
  - Eliminated the express reference to uniformity of taxation within a local government
  
- But . . . "One tax rate per jurisdiction" principle remains applicable
  
- Multiple local tax rates would violate the prohibition on local classification of property
  
- \*Art. V, Section 2(4): Special service tax districts (1973)

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### Exemption Uniformity

- Only the General Assembly may exempt ("classify") property so that it is taxed differently than other classes of property
  
- Exemptions must apply "on a state-wide basis" and "be made by general law uniformly applicable in every county, city and town"
  
- Local governments have no authority to classify property

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### Exemption Uniformity

- What is the scope of this requirement?
  - GS 105-286: Mandatory Advancement of Reappraisal
    - Only for counties > 75,000 population
  - Session Law 2013-362:
    - "An Act To Correct General Reappraisals Resulting In Property Values That Do Not Comply With The Requirements Of North Carolina Law"
  - Very little relevant case law

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### Exemption Uniformity

*In re: Appeal of Martin* (NC Supreme Court, 1974)

"This constitutional provision does not prohibit reasonable flexibility and variety appropriate to reasonable schemes of State taxation. . . . While the General Assembly may not establish a classification that is arbitrary or capricious, a classification is constitutional if founded upon a reasonable distinction or difference and bears a substantial relation to the object of the legislation.

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### Exemption Uniformity

*In re: Appeal of Barbor* (NC Court of Appeals, 1993)

Residential taxpayer challenged exemption for "homes for the aged, sick or infirm"

Classification was not arbitrary: "narrowly tailored to promote communities for the elderly without giving a tax windfall to all residential property owners"

"Rational basis review" for classifications that do not involve fundamental right or suspect class

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### Hypothetical Exclusions

- 50% exclusion for real property used as a legal residence by a taxpayer earning \$50,000 or less
- 50% exclusion for real property used as a legal residence by a taxpayer earning \$50,000 or less in Durham, Guilford, Mecklenburg, and Wake Counties.
- 50% exclusion for real property used as a legal residence by a taxpayer earning 80% or less of Area Median Income (HUD definition of "low income")

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