



# SNAPSHOT



*A policy brief from the Legislative Research Office*

## Payments in Lieu of Taxes: Who pays and how much?

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Property owners in Nebraska pay taxes on property they own, unless the taxpayer's property is exempt.

Notably, state law authorizes some taxpayers who own tax-exempt property to make payments, known as **payments in lieu of taxes**, to taxing authorities in certain circumstances. Generally, payments in lieu of taxes are made to compensate a political subdivision for some or all of the property tax revenue lost due to tax-exempt ownership or use of real property.

In Nebraska, public power districts and corporations; the Game and Parks Commission; housing agencies; hospitals; community redevelopment authorities; city or village electric distribution systems; and the State of Nebraska or its political subdivisions make payments in lieu of taxes on certain property.<sup>1</sup>

Further, Laws 2018, LB 758 allows joint entities or natural resources districts that purchase private land for water augmentation projects for streamflow enhancement to make voluntary payments in lieu of taxes. Under the bill, payments in lieu of taxes cannot exceed the amount of property tax due if the land was subject to tax, and payments are allocated in the same proportion as real property taxes would be.

### **Public Power Districts and Corporations**

Public power districts and corporations must make payments in lieu of taxes to local political subdivisions pursuant to Article VIII, section 11, of the Nebraska Constitution.<sup>2</sup>

Public power districts and corporations make two types

of payments in lieu of taxes: (1) payments in the same amount and to the same political subdivisions as were paid in 1957; and (2) 5 percent of the gross retail sales collected within a city or village where electricity is sold at retail (minus the amount of the 1957 payment allocated to the city or village).

Payments based upon 5 percent of the gross retail sales of the public power district or corporation are distributed only to the following political subdivisions: (1) the city or village where the electricity is sold, (2) the school district located in that city or village, and (3) the county. The distribution of payments is based on the proportionate share of the total property tax levy in the preceding year.

### **Game and Parks Commission**

Since the enactment of LB 861 in 1976, the Nebraska Game and Parks Commission must make payments in lieu of taxes on land acquired for wildlife management purposes.

Payments in lieu of taxes made by the commission are based on the amount of property tax that would be due if the land was owned by a private person and allocated like other real property taxes. Land subject to a payment in lieu of tax is assessed based upon the use it had just prior to being purchased by the commission, excluding any improvements either before or after the purchase. The commission is allowed to protest valuation of land and appeal any action of the county board of equalization.

### **Housing Agencies**

Housing agencies can make payments in lieu of taxes, not to exceed the costs of services, improvements, or facilities provided by political subdivisions. Payments are

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1. See Neb. Rev. Stat. secs. 70-651.01-70-651.05; 37-335; 71-1590; 77-211-77-212; 18-2137; 70-653.01-70-653.02; 77-202; and Neb. Admin. Code Title 350, Chapter 41, respectively. All of these entities are required to make payments in lieu of taxes, except housing agencies and city or village electric distribution systems. In these two instances, the statutory language is permissive, not mandatory.

2. A ballot initiative was proposed by a voter petition and passed in 1958. Payments in lieu of taxes were implemented by Laws 1959, LB 272.



distributed based on how real property taxes would be distributed. Authority for these payments was enacted in 1999 as part of the Nebraska Housing Agency Act. Housing agencies are political subdivisions and can be established by a city, county, or combination of cities or counties, and housing authorities are also included.

## Hospitals

Since the enactment of legislation in 1973, hospitals leasing space to private entities must collect sufficient rent from the tenant to make payments in lieu of taxes on the leased property. Payments equal the amount that would have been paid if the property was not exempt and are distributed to political subdivisions as if real property taxes had been paid.

Leased space for supportive medical services to any hospital patients is exempt from payments in lieu of taxes. Supportive services include nursing, surgical, anesthesia, laboratory, diagnostic radiology, pharmacy, dietary, x-ray, rehabilitation, and psychiatric services.

## Community Redevelopment Authorities

Since 1957, Community Redevelopment Authorities must make payments in lieu of taxes on real property acquired pursuant to the Community Development Law. Payments

in lieu of taxes equal the amount of real property taxes paid the year immediately preceding acquisition of the property.

## City or Village Electric Distribution Systems

Dating back to 1947, cities and villages can make payments in lieu of taxes on electric distribution system property purchased from a public power district before June 10, 1947. If the city or village chooses to pay payments in lieu of taxes, the amount due equals the amount last paid by the public power district and distributed to the same political subdivisions in the same proportion.

## State or Political Subdivisions

Property owned by the state or its political subdivisions and used for a public purpose is exempt from property tax. But, unleased property not used for a public purpose can be subject to property taxes, unless the state or the political subdivision makes payments in lieu of taxes for any public safety and emergency services and road or street construction services to all governments providing the services.<sup>3</sup> The amount of the payment in lieu of tax is based on the proportionate share of the cost of providing the services unless the governing body of the entity providing the services adopts a policy providing a different method.

## Payments in lieu of taxes since 2010

	Public Power Districts	Game and Parks Commission	Housing Authorities	Hospitals	Community Redevelopment Authorities	Total
2017	\$47,925,179.76	\$1,007,982.26	\$554,957.01	\$19,968.28	\$930.34	\$49,509,017.65
2016	\$46,061,323.73	\$990,545.64	\$561,627.32	\$21,088.90	\$936.28	\$47,637,537.87
2015	\$45,619,788.40	\$953,698.42	\$611,748.94	\$20,377.50	\$945.06	\$47,208,573.32
2014	\$45,523,446.00	\$850,455.98	\$537,145.95	\$24,731.17	\$5,620.42	\$46,943,413.52
2013	\$43,246,954.29	\$717,277.71	\$531,157.54	\$25,576.71	\$5,620.42	\$44,528,599.67
2012	\$41,042,387.16	\$714,944.37	\$469,754.98	\$26,985.72	\$16,138.96	\$42,272,223.19
2011	\$39,409,704.67	\$615,161.14	\$513,837.56	\$25,508.36	\$16,197.96	\$40,582,420.69
2010	\$37,080,020.22	\$607,413.69	\$508,019.00	\$23,231.82	\$23,308.00	\$38,244,002.73

Source: Nebraska Department of Revenue Property Assessment Division Annual Report, Table 21

3. Laws 1998, LR 45CA added language to Neb. Const. Art. VIII, sec. 2, authorizing the legislature to impose property taxes or payments in lieu of taxes on property owned by the state or its political subdivisions not used for a public purpose. The measure passed on the 1998 general election ballot, and Laws 1999, LB 271, enacted the current statutory provision.