The Exemption of Property from Taxation in the United States

Claude W. Stimson
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IN THE UNITED STATES

By Claude W. Stimson*

Those economic activities of society that are carried on by the social group collectively, commonly known as government functions, necessitate the diversion of a portion of the total income or wealth to government use. The greater part of the wealth thus diverted constitutes a burden upon taxpayers. This burden is presumably apportioned roughly in accordance with the ability of taxpayers to contribute, or in accordance with benefits received. The burden is usually distributed among individuals on the basis of property owned, income received, or expenditures for specified goods or services. For reasons to be discussed later, immunity from a part or all of the tax burden is sometimes granted to an individual or a group of individuals. This immunity from taxation is known as tax exemption. The present study is devoted to a presentation and analysis of the various forms of exemption from taxes on property. The historical development of such exemption, as well as the various aspects of its present status, are examined. An attempt is made to determine the effects of tax exemption as they relate to an equitable distribution of the tax burden.

Exemptions from property taxes may be either in personam or in rem, the latter form being the more common. When tax immunity is granted because of the peculiar status of the favored individual, it constitutes an exemption in personam. An illustration of this form of exemption is found in those states that grant to war veterans immunity from taxation on a specified amount of property. When tax exemption is granted to individuals or organizations because their property is devoted to specified uses, or because such property is owned by individuals or organizations engaged in specified activities, the exemption is in rem. The removal of church property from the tax roll illustrates this form of exemption. Whether the tax immunity be in personam or in rem, a readjustment of the tax burden is almost certain to follow.

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The important question is whether or not justice has been promoted by the change.

Beyond blindly following tradition, the chief reasons for granting exemption from taxation are to reimburse individuals who are using their property for purposes that are held to be public, to avoid the costs to a government of taxing its own property, to avoid administrative difficulties, to eliminate double taxation, to stimulate industry or agriculture, to reward actions that are held to be socially desirable, and to promote socio-political undertakings. The laws embodying these exemptions, although they differ in detail in the various states, are very similar in general subject matter covered. Most of the exemptions are easily classified in a dozen categories, including personal exemptions, public property, churches, charities, educational institutions, industrial enterprises, buildings, and intangibles. Every state exempts from taxation its own property and the property of its political subdivisions. In about half of the states the exemption applies only to that property which is used for public purposes. Property belonging to the federal government is exempted by state constitutions, by statute, or by court decision. Every state exempts from taxation property used in the field of education, provided the owner is not a profit-seeking institution. Restrictions as to the amount of exempt property—that any one college or school may have are found in at least a third of the states. Every state exempts real property, sometimes limited in amount, and the tangible personal property used therewith, in the field of religion. Every state exempts, in one form or another, property used by charitable societies. In nineteen states, exemption is granted to manufacturing establishments. Almost every state grants some kind of exemption to agricultural property, even though it be only that used by agricultural societies. The majority of the states exempt a specified amount of the personal property of each household, the amount being, in most cases, from $100 to $500. Half of the states grant a degree of tax exemption to war veterans or their societies. Every state provides for tax exemption of intangibles of one kind or another, usually for the purpose of avoiding unjust double taxation. Nearly one-fourth of the states provide tax exemption to encourage forestation. A few of the

coastal states provide tax favors to shipping interests. In addition to the provisions mentioned, each state grants a number of less important miscellaneous exemptions. The common forms of exemption constitute tax favors or subsidies of general acceptance and long standing, sanctioned by the courts and liberally extended by legislative assemblies.

The value of real property and improvements exempt from taxation in the United States in 1922, the most recent year for which data are available, was approximately $20,500,000,000,\(^2\) which constituted 11.6 per cent of the value of all real property, taxed and exempt. The state of Iowa had the lowest percentage of exempt real property. Its exempt property was valued at $315,000,000, which constituted 4.4 per cent of the value of all real property in the state. At the other extreme, Wyoming contained real property valued at $690,000,000, of which $327,000,000, or 55.4 per cent, was exempt from taxation. The greatest amount of non-taxable property is found in the Rocky Mountain states, which contain large tracts of land owned by the federal government. Second in percentage of real property exempted from taxation is the Middle Atlantic group, consisting of New York, New Jersey, and Pennsylvania. In those three states the value of real property exempt from taxation in 1922 was $6,300,000,000, constituting 15.2 per cent of the value of all real property.\(^3\) The group of states having the lowest percentage of exemption consisted of Minnesota, Iowa, Missouri, North Dakota, South Dakota, Nebraska, and Kansas. In those states 6.6 per cent of the value of all real property was exempt from taxation, the exemption amounting to nearly two billion dollars.

An examination of the per capita valuation of real property during the period since 1890 indicates that the value of exempt property has been increasing slightly more rapidly than the value of taxable property. In 1890 the per capita value of taxable real property in the United States was $975. By 1922 it amounted to $2,731, an increase of 180 per cent. During the same period the per capita value of exempt real property increased from $61 to $186, a percentage increase of 205.\(^4\)

In those states where local tax officials have maintained adequate records of the value of exempt real property, the increase

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\(^2\)Data from Wealth, Public Debt, and Taxation: 1922.
\(^3\)Data from Wealth, Public Debt, and Taxation: 1922.
\(^4\)Data from Wealth, Public Debt, and Taxation: 1922.
in percentage of property exempted has been almost continuous. In New York, for instance, the value of exempt real property in 1904 was $1,328,000,000, which constituted 15.8 per cent of the value of all real property. By 1930, the value of exempt property was $6,697,000,000, which amounted to 19.2 per cent of the value of all real property. Similarly, in Rhode Island the value of exempt real property increased from $63,000,000 in 1913, to $165,444,000 in 1930; the percentage of real property exempted rising from 8.8 to 10.4. Similar increases are shown in Minnesota, Ohio, and Louisiana.

The extent to which personal property is exempt from taxation in the United States is difficult to determine, since very few states attempt to evaluate such property. Intangibles have increased rapidly in significance since the Civil War, but, as a result of their inequitable assessment under the general property tax, they have in many places almost entirely disappeared from the tax roll. In the states where data are available, it is estimated that from two to fifteen per cent of all personal property is legally removed from the tax base. Thus, in Kansas 10.6 per cent of the value of all personal property is exempt from taxation. In Colorado 2.8 per cent is exempt; and in Washington 14.9 per cent.

A study of the types of exempt property shows that privately owned property is increasing more rapidly than that which is publicly owned, although the difference is not great. In the state of New York, for example, publicly owned exempt property was valued at $1,932,000,000 in 1916, and constituted 74.1 per cent of the value of all exempt property. In 1930 the publicly owned exempt property, valued at $4,358,000,000, constituted only 65.1 per cent of the total value of exempt property. In New Jersey, the value of publicly owned exempt property in 1917 was $178,000,000, which constituted 63.6 per cent of the value of all exempt property. In 1930, the value of publicly owned property was $527,000,000, which constituted only 54.8 of the total value of exempt property. Similar trends are shown in Massachusetts,

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5 Data from New York, Reports of State Tax Commission, 1904 and 1930.
6 Data from Rhode Island, Reports of Board of Tax Commissioners, 1913 and 1930.
7 Data from reports of state tax commissions.
8 Data from Kansas, Reports of State Tax Commission, 1928.
9 Data from Colorado, Reports of State Tax Commission, 1930.
10 Data from Washington, Minutes and Official Proceedings of the State Equalization Committee, 1925.
Rhode Island, and Minnesota. In Connecticut and Ohio, on the other hand, a slight increase is shown in the percentage of exempt property that is publicly owned.11

Property used in the field of education ranks next to publicly owned property in amount exempted from taxation. In almost every state for which data are available the trend has been consistently upward during the period covered.12 The outstanding exception is the state of New York, where the percentage of exempt property used in education declined from 41 in 1916 to 37.2 in 1930. The value of this property increased, however, from $1,067,000,000 to $2,487,000,000 during that period. The percentage decline is accounted for in the rapid increase of exempt property used for other public and private purposes. As typical of the trend of exempt educational property in the other states for which data are available, New Jersey, Rhode Island, and Minnesota may be cited. In New Jersey the value of such property increased from $80,000,000 in 1917, to $280,000,000 in 1930. Expressed as a percentage of all exempt property, the increase was from 28.6 per cent in 1917 to 29.1 per cent in 1930. In Rhode Island exempt property used in the field of education was valued at $9,000,000 in 1916, and $33,000,000 in 1930. As a percentage of the value of all exempt property, the increase was from 12.6 per cent in the earlier year to 20 per cent in 1930. In Minnesota the increase was from $16,000,000 in 1916 to $40,000,000 in 1926; an increase from 21.4 per cent to 30.8 per cent of the value of all exempt property.

In contrast with the upward trend in the exemption of publicly owned and educational property, the amount of property used for religious purposes is declining in relative importance.13 In New York, for example, the value of this type of exempt property, although increasing from $304,000,000 in 1916 to $670,000,000 in 1930, declined from 11.7 per cent to 10 per cent of the value of all exempt property, during that period. In New Jersey the decline was from 28.1 per cent in 1917 to 18.8 per cent in 1930, the value of such property increasing from $79,000,000 to $181,000,000 during the period. Of the states for which data are

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11The preceding data are taken from reports of the state tax commissions.
12Data are from reports of state tax commissions in N. Y., N. J., Conn., R. I., Minn., Ohio.
13Data are from reports of state tax commissions in N. Y., N. J., Conn., R. I., Minn., Ohio.
available Minnesota alone shows an increase in both percentage and value, the increase between 1914 and 1926 being, respectively, from 17.8 per cent to 19.5 per cent, and from $13,000,000 to $31,000,000.

The data analyzed indicate that the total value of exempt property in the United States has been increasing slightly more rapidly than the value of taxable property, and that privately owned exempt property is occupying an increasingly important place in the exemption problem.

A perusal of the history of tax exemption indicates that the granting of tax immunity to ecclesiastical and military property is probably as old as the institution of taxation. Church property, for example, was exempted under the doctrine that it ceased to be under human control when it was devoted to God. English history of the eleventh and twelfth centuries contains examples of ecclesiastical and military exemption as an accepted part of the tax systems. Under the Saladin tithe, for instance, which is said to be the first occasion when movable property was regularly taxed, the books and apparatus of clergymen were exempted. During the thirteenth century, specified horses, precious metals, and household utensils were exempted from taxation. Most of the early exemption provisions had their beginning in the desire to encourage or aid those who furnished physical protection for the group. Such service was in fact a social or governmental function. The exemption of church and military property was handed down as a tradition, one of many that the American colonists transplanted from Europe. The established colonial churches, in most cases, were public institutions supported from the government treasury. It was not until after the Revolutionary War, which brought a questioning of various accepted authorities, that the established churches were swept away. The exemption of their property remained, however, although Church and State were assumed to be completely separated. The retention of this type of exemption, long after the reason for its existence has passed away, suggests that very little progress has been made in this portion of the field of taxation.

The history of exemption laws in the American colonies follows closely the history of political and economic development.

14See Adler, Historical Origin of the Exemption from Taxation of Charitable Institutions.
The early colonies, such as Carolina and New York, found it expedient to encourage immigration. They accomplished their objective by offering freedom from taxation for a period of five or ten years after settlement. Similarly, they sought to attract mechanics by means of tax exemption, and in like manner to build up shipping and shipbuilding. Each great war was followed by the enactment of tax exemption laws. Care of the wounded and impoverished called attention to the need for more hospitals and a greater amount of charity work. Moreover, there was always the problem of rewarding the men who had taken part in war. Tax exemption was an expedient method of assisting charitable work and rewarding war veterans, since it was a subsidy not easily or immediately recognized by the taxpayers.

In the field of industry, exemption legislation has grown rapidly during war periods. In colonial times, the direct subsidy or bounty was the usual means of assisting the few industries that developed, although tax exemption was granted to a few of the early New England enterprises. The economic self-reliance that was forced upon the American people during the War of 1812 was a factor in the development of manufacturing on a small scale. To assist the new enterprises tax exemption privileges were granted. A similar wave of exemption to industry occurred during the Civil War period, particularly during the post-war years. This movement found expression in legislative enactments in several of the eastern and southern states, and in unsuccessful attempts to enact exemption laws in the states farther west. Since the close of the World War a number of the southern and eastern states have enacted new exemption laws favoring industrial enterprises.

For examples of these early exemptions in South Carolina, see South Carolina, Statutes at Large 429; ibid., Vol. 2, pp. 150-51, 628; ibid., Vol. 4, p. 214.


For example, see Ware, The Early New England Cotton Manufacture 20; Maine, Laws 1820-21, ch. 85; Report of the Commissioners of Mass., Taxation and Exemption Therefrom, p. 159; Maine, Public Acts 1825, ch. 288; Bidwell, Taxation in New York State 194; Maine, Acts and Resolves 1864, ch. 234; Giveen, A Chronology of Municipal History and Election Statistics, Waterville, Maine, 1771-1908, pp. 118, 121.

those bestowed upon war veterans, illustrate the spurts in exemption legislation that occur when war temporarily disturbs the equilibrium of the economic system. In each case—except that of the World War, whose effects have not yet run their full course—they receded as the war period faded into the background.

The exemption of property used for educational purposes has existed in America from the time when taxes were first levied. The function of education, first assumed by the churches, has gradually passed to state or local governments, as the importance of free public education was realized. The schools, at first as a part of the churches, and later as public institutions, were not taxed. The gradual secularization of schools, completed by the middle of the nineteenth century, called for no change in taxation policy.

The history of the development of tax exemption legislation carried with it the history of the attitude of the courts. Judicial decisions have made it clear that the power to tax and apportion the burden is inherent in government. Exemption is a part of this power. It is well settled that taxation must be for a public purpose, but it is sometimes difficult to determine which purposes are public. The content of the term "public" changes as the economic system develops. It is generally agreed that such purposes as the preservation of order, the enforcement of civil rights and the punishment of crime, the compensation of public officers, the erection and repair of necessary public buildings, and the expense of legislation and of administering the laws, are public. On the other hand, it is generally held that donations to private individuals to assist them in establishing factories, or the loaning of money to individuals for rebuilding a portion of a city that has been destroyed by fire, are not for a public purpose. Whether

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or not a municipality may engage in commercial enterprises is a question illustrating a division of opinion as to public purpose. In general, courts maintain that such activities may be carried on by a municipality only in cases where a special need is shown; and the circumstances surrounding a specific case may convince one court that such a need exists, while identical circumstances fail to convince a court of another state.24

An examination of court opinions discloses the fact that legislation granting indirect subsidies, in the form of tax exemption, is upheld by the courts, even though a direct subsidy to the same institutions would be denied under the doctrine of direct public purpose. This is amply illustrated in the case of churches, sectarian schools, and private industrial enterprises. Tax exemption for paupers or war veterans, on the other hand, is not inconsistent with the public purpose doctrine, since direct aid may be extended to such persons. Courts quite generally have failed to see that tax exemption is a subsidy whose burden rests upon tax payers.

The courts, moreover, have endowed the present generation with the unfortunate doctrine of contract exemption,25 the basis for which rests upon the provision in the federal constitution prohibiting impairment of contracts. In states having constitutions not precluding the granting of perpetual exemptions, charters were sometimes given to educational, religious, or charitable institutions, freeing them forever from the payment of taxes on property owned by them. Since the federal constitution denies to any state the power to impair contracts, such exemption favors could not later be abrogated unless the beneficiary consented.26 The result has been a considerable reduction of the tax base in districts containing property owned by institutions that obtained charters when perpetual exemptions were being granted. A large part of the exempt property is leased for commercial purposes. As long


25See New Jersey v. Wilson, (1812) 7 Cranch (U.S.) 164, 3 L. Ed. 303.

as property taxation exists, it is apparently impossible to eliminate this form of exemption, unless resort be had to some drastic method such as eminent domain, or unless the courts change their minds as to perpetuities.

In general, the courts attempt to construe exemption laws strictly, although recognized exceptions exist in the fields of education and religion. The statutes vary considerably in their terms. In some the exemption is based upon *ownership*, in others upon *use*; in a number of states the two must concur. The courts, in most cases, require direct physical use of the exempt property, under a *use* statute, thus precluding the exemption of property leased for commercial purposes, even though the income is devoted to the uses of the exempt institution.\(^2\) Exemption was denied, for example, to a gymnastic association whose claim was that its property met the requirement of exclusive use for educational purposes, where a part of the property was leased and the rental used in support of education.\(^3\) An Illinois court said: "The fact that rents and revenues of property are devoted to school purposes does not exempt the property from taxation. The property itself must be directly used for school purposes before it is entitled to be exempted."\(^4\) The use requirement does not confine exempt property to that which is indispensable, unless the law expresses a contrary intention. For example, such property as athletic fields is generally included within an exemption provision covering property used for educational purposes.\(^5\) The term "exclusive use" is construed as nearly as possible in accordance with the intention of the legislature. It is the primary or predominant use which is significant, and an occasional use of the property for another purpose does not invalidate the exemption.\(^6\) If part of a building is used for exempt purposes, and the remainder for non-exempt purposes, the courts usually permit a separation of the value into two parts and an application of the exemption statute accordingly.

In states where endowments are not exempted by statute, the courts sometimes distinguish endowments in the form of real property from those in the form of intangible property. Real

\(^{27}\) See (1928) 12 Minnesota Law Review 191.


\(^{29}\) Monticello Seminary v. Board of Review of Madison Co., (1911) 249 Ill. 481, 484, 94 N. E. 938.


\(^{31}\) People ex rel. Mizpah Lodge v. Burke et al., (1920) 228 N. Y. 245, 126 N. E. 703.
property may be used directly for the purpose of the exempt institution, as the campus of a college, for example; or it may be used indirectly for the benefit of the exempt institution by being devoted to commercial uses and the income applied to the purpose of the exempt institution. As already indicated, the courts usually deny exemption in the latter case. When endowment takes the form of securities, there is only one way to use it; that is, apply the income to the purposes of the exempt institution. Hence courts have sometimes exempted this type of endowment when they have denied exemption to real property endowments.\(^3\)

The weight of authority favors the rule that if the exemption law requires ownership and says nothing about use, all property so owned is non-taxable regardless of use.\(^3\) It is sometimes held, however, that even though no mention is made of the use to which the property is devoted, only such property as is used for the relevant purposes of the exempt institution is exempt. This view is found almost universally in the case of exemptions or commutations to railroads. The theory is that no clear intention to exempt all property owned by the favored institution is discernible; therefore exemption should be limited to property owned and used for the purpose for which the institution was formed.\(^4\)

A statement typical of the interpretation of exemption laws is found in a recent Nebraska case, where the court said:

"The theory that the rule requiring strict construction of a tax exemption statute demands that the narrowest possible meaning should be given to words descriptive of the objects of it would establish too severe a standard. Rather ought it to be the rule that such words as charitable should be given a fair and reasonable interpretation, neither too broad nor too narrow, in ascertaining the true intent as to the objects of exemption, and then that the statute should be strictly applied and enforced in order not unduly to extend its scope. The rule does not call for a strained construction, adverse to the real intention, but the judicial interpretation of such a statute should always be reasonable."\(^3\)

A consideration of property tax exemption raises this fundamental question: is exemption the most effective means of accom-
plishing the purposes sought? If it is not, what better means is it possible to devise?

The objectives sought have been presented. It should be recognized in the beginning that exemptions should not be granted merely because of custom or tradition. Their justification today clearly must rest upon the basis of the best interests of society as it now exists. This fact is recognized by the courts when they attempt to justify the exemption of church property, for instance, on the basis of moral influence rather than on tradition and custom. The influence of churches upon the character of various members of society is said to be sufficiently desirable to warrant the removal of church property from the tax roll. Religious societies devote their efforts and their property to the moral uplifting of society, in most cases seeking no pecuniary profit for themselves. Should not the government assist, to the extent of relieving them from the burden of taxation? An answer to this question necessitates a consideration of several important facts. Removal of the property from the tax base shifts a part of the cost of government from religious groups to other taxpayers. The burden thus shifted is often a large one. In the state of New York, for example, the value of property of religious societies exempted from taxation in 1930 exceeded $670,000,000, which constituted 2.25 per cent of the value of all real property in the state. In 1926, with exempt church property valuations in excess of $599,000,000, the per capita cost of the exemption in New York was approximately $1.40. Since more than one-half of the people of the United States are not church members, it follows that a part of the burden of supporting religious activities is being borne by people who may have no interest in the maintenance of those activities. Since the fundamental laws that have been accepted in the United States provide for separation of Church and State, and since the exemption of church property from taxation constitutes a subsidy paid by the taxpayers to the church associations, it is clear that what has been expressly prohibited is being indirectly carried on and that the courts and a large part of the public are sanctioning it. Exemption is tantamount to endorsing the proposition that religion is a public function—which it ceased

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36 Supra p. 412.
37 Data are from New York, Report of State Tax Commission 1930.
38 The census shows 54,576,346 church members in the U. S. See Religious Bodies: 1926, p. 82.
to be by the end of the eighteenth century—and not an affair of the private conscience.

The second question to be considered—relating to methods of granting government assistance—involves a comparison of indirect aid by means of exemption with direct aid by means of an outright subsidy. The latter method has a number of advantages over tax exemption. In the first place, the amount of the aid should depend upon such factors as the actual needs of the favored institution or the extent of its benefactions, rather than upon the value of the real property owned or used. The case of privately operated charities effectively illustrates this principle. It is generally recognized that charity is a public function; and, such being the case, the government itself should execute the function. When charity is permitted to remain in private hands, the work ordinarily is not properly coordinated or controlled. Furthermore, the assistance granted through tax exemption constitutes a subsidy apportioned in accordance with the amount of real property that the favored institution owns or uses. Clearly this is not a desirable form for the assistance to take. If private institutions are to be retained temporarily, government assistance should take the form of a direct subsidy whose amount can be determined by the needs of the charitable institution or by the quality or quantity of the work performed. Furthermore, a direct subsidy may carry with it government control and supervision, both of which are difficult to apply as conditions precedent to exemption.

A second advantage of the direct subsidy over tax exemption lies in the fact that it is more quickly detected by the public, is more easily understood, and is more certain as to cost. Many exemptions would not be condoned by taxpayers were their true character exposed. Consider the case of exemptions granted to industrial enterprises, for example. The chief purpose in granting to an industrial establishment exemption from property taxes for the first five or ten years of its existence is to attract such enterprises to the state or locality offering the exemption. There is no evidence available that this purpose is accomplished. A comparison of industrial growth, measured by the increase in value of manufactured products and in income reported by industrial corporations, in states granting such exemptions and in similarly

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39 This fact was recognized as early as the time of Henry VIII in England. See Adler, Historical Origin of the Exemption of Charitable Institutions.
situated states not granting them indicates that exemptions have not modified industrial development.\textsuperscript{40} It is fairly certain that other factors, such as location of raw materials and markets, character of the labor supply, availability of capital, and transportation facilities, are much more fundamental than tax exemption in determining the location of industrial enterprises. The cost to taxpayers of granting these exemptions may be illustrated by a factory of the Atlantic Coast Fisheries, valued at $395,149, located in the town of Groton, Connecticut. The tax rate in Groton in 1930 having been 27 mills, the revenue lost to the town because of this exemption was $10,669. If the annual cost of granting this exemption averages $10,000, the cost for the five-year period for which the immunity was granted will be $50,000—a considerable sum for a small town to set off against any benefit that the enterprise may bring.\textsuperscript{41} If the subsidy were direct, its cost would probably be known to the taxpayers, who bear the burden, and a more intelligible basis for action would be provided.

A third preference for the direct subsidy over tax exemption is that it may be allocated in such a way that the area of benefit more nearly coincides with the area of cost. Injustices may result, for example, where a city is permitted to grant exemption from both city and county or state taxes. The city may derive whatever benefit accrues from the stimulated industry, while the county or state, or both, are helping to bear the costs. It is also true that exemption from local taxation may result in a benefit to the state—an increase in its tax base—while the locality is bearing a heavy burden because of the tax immunity granted to the industries. Such problems are, of course, not confined to industrial exemption; they are to some degree present in exemptions of every kind.

Brief mention should be made of some of the special problems involved in exemptions in personam, as well as those found in the granting of tax immunity to publicly owned property and intangibles. Before presenting these problems, however, the argument that the influence of exempt institutions upon the value of contiguous land justifies exemption must be considered. It is

\textsuperscript{40}Data for the comparison were taken from Commissioners of Internal Revenue, Statistics of Income, 1917, pp. 59-60; ibid. 1921, pp. 66-99; ibid. 1923, pp. 87-117; ibid. 1925, p. 121; ibid. 1927, pp. 335-36; U. S. Dept. of Commerce, Bureau of the Census, Biennial Census of Manufactures, 1927, pp. 1311 ff.

\textsuperscript{41}Data from Quadrennial Statement of Real Estate Exempted from Taxation, 1930 p. 90; Report of the Tax Commission for the Biennial Period 1929 and 1930.
argued, particularly in the case of churches, that the exempt institution increases the value of contiguous land, and hence the exempt valuation is actually included in the tax base, there being in fact no net exemption. A study of this problem indicates that many exempt institutions have a depressing influence upon contiguous land values, and that such is sometimes the case even with churches, especially when they are located in a business district. Furthermore, many other types of property, such as banks and business houses, have a buoyant influence upon neighboring land values. It is not the fact of exemption, but the nature of the building or the functions performed, that casts its influence over surrounding land values. Clearly such influence is not a valid reason for exempting from taxation churches or any other kind of property.

Exemptions in personam are the means whereby recognition is granted of the peculiar status of specified classes of individuals. Perhaps the most important of these exemptions is the immunity from taxation that may be granted to an individual on a specified minimum of income or property, this minimum presumably not exceeding the amount needed for subsistence at a fairly efficient level. The principle that taxes should never encroach upon the necessaries for efficiency has been set forth by writers from Greek and Roman times down to the present. It has been treated as a corollary of the principle that taxation should be in accordance with ability to pay. A number of writers, on the other hand, have insisted that the cost of government is itself a part of the necessary costs of subsistence, and that every member of society, if he has any income or property whatever, should pay something

42Valuations of Chicago properties were used in this study.
in the form of a direct tax. The present study is concerned with property taxation only. If an individual owns any property, he can pay a direct tax without encroachment upon the necessaries for efficiency, unless the property accumulation be so small that to take any part of it would force the owner below the subsistence level. For those members who have not the means necessary for existence at a reasonable level of efficiency, society must in some manner provide. Since many of these people own no property, assistance can take the form of exemption in only a part of the cases. A more logical solution would appear to be direct assistance, which has all the advantages over exemption that have been noted earlier in this study, particularly the fact that the amount of the subsidy can be determined by needs of the recipient rather than by the amount of property he owns. Temporary abatements might be granted until such time as society has developed to the point where its welfare expenditures are adequate to eliminate the problem as it exists today. One of the evils of the exemption of a subsistence minimum is that the immunity is usually granted to every person, whether he be a millionaire or a person of very small means. Certainly there is no justification for exempting a minimum amount of the property of an individual whose total wealth exceeds a moderately small amount. This principle has been recognized in the case of exemption to war veterans in those states that allow exemption only when the total property owned by the veteran does not exceed a specified amount, usually $5,000. One of the chief gains from permitting no exemption from property taxation lies in the fact that universality of direct taxation gives every individual a sense of responsibility for a just and economical functioning of government.

In the case of publicly owned property, a fundamental problem is the equitable distribution of the tax burden. When property owned by one taxing district and located in another is exempted from taxation, a burden is shifted from the taxpayers of the owning district to those of the district in which the property is situated. If the latter are benefited by the development of such property, as compared with alternative utilization of the site, then such benefit must be balanced against the burden which they

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bear as a result of the exemption. Because of the difficulty of determining the benefit and the burden, compromises are often made. For instance, a municipality may acquire property outside its corporate limits and be required, as in California,\(^4\) to pay taxes on the site value of such property, but not on the improvements. Another problem arises in the case of publicly owned property that is located within the owning district. If it be a state university, for example, supposedly supported by the entire state, exemption of the property from local taxation shifts part of the state burden to the local taxpayers. Here, again, the benefits received by the local group must be balanced against the burden which they are forced to bear. It seems probable that the state should pay a part of the taxes that would be collected on this property if it were not used for exempt purposes. This fact has been recognized by Massachusetts and a few other states,\(^4\) in the provision for payment of taxes by the state to the localities containing state prisons, penal colonies, and other institutions that furnish very little benefit to the district immediately surrounding them. In the case of public elementary and secondary schools, a burden is shifted from localities where the schools are situated to taxpayers in other parts of the state, as a result of removing the property from the state tax base. To the extent that such schools are fairly evenly distributed throughout the state, the burden is equalized and little injustice results. Municipally owned industries should, in most cases, be taxed, even by the owning district. Exemption of such property may amount to an undesirable shifting of tax burden from the users of the commodity or service produced to the taxpayers. In many cases there is a lack of coincidence of users and taxpayers, as well as a difference between the distribution of taxpaying ability and the quantity of the service used. There may be cases, however, where the commodity or service produced by the municipality is of such a nature that it is to the best interests of the social group that taxpayers bear the burden of taxes on the municipal enterprise, or that they bear a still greater part of the costs.\(^4\) Here, as in other cases of publicly owned property, there should be a balancing of benefits and burdens, and each case decided on its own merits.

\(^4\)California const., art. XIII, sec. 1.


\(^4\)See Hugh Dalton, Principles of Public Finance 134.
The exemption of some of the intangibles is justified on the basis of elimination of double taxation. Intangibles are sometimes representative of tangible property that is already adequately taxed. Such is often the case with mortgages, for example. When both the land and the mortgage which it secures are taxed, it has been fairly well established that the tax on the mortgage is shifted, through the exaction of higher interest rates, from the mortgagor to the mortgagee.48 If the tax on mortgages is very low, inertia may keep it from being shifted. Nevertheless, it may still be an unjust tax. On the other hand, not all intangibles are representative of tangible property. Under a property tax, the good will and corporate excess of industrial enterprises should be taxed. Their value can often be reached most effectively by taxing the intangibles which represent them. In some cases the taxation of intangibles at full general property tax rates leads to an undesirable shifting or avoidance of the taxes. The application of a low rate is desirable in such cases. In regard to actual exemption, however, it is safe to conclude that except for the exemptions to avoid unjust double taxation all intangible property should be taxed.

The evidence obtained in this study leads to the conclusion that, with very few exceptions—special cases of publicly owned property and of intangibles—no property should be exempted from the property tax. Economic considerations require that taxable capacity, under general property taxation, be measured by the total value of property owned. Exemption of any part of such property reduces the possibility of an equitable distribution of the tax burden.