STATE OF MINNESOTA

IN SUPREME COURT

A21-0007

Tax Court — Moore, III, J.

Jeffrey S. Sheridan, et al.,

Relators,

vs.

Filed: August 25, 2021
Office of Appellate Courts

Commissioner of Revenue,

Respondent.

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Randall A. Kins, Sheridan & Dulas P.A., Eagan, Minnesota for relators.

Keith Ellison, Attorney General, Kristine K. Nogosek, Mawerdi A. Hamid, Assistant Attorneys General, Saint Paul, Minnesota for respondent.

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S Y L L A B U S

1. The phrase "[a]ny such tax on aircraft shall be in lieu of all other taxes," as used in article X, section 5 of the Minnesota Constitution, prohibits only the application of duplicative personal property taxes on aircraft.

2. Because it is not a duplicative personal property tax, the tax imposed on aircraft by Minnesota Statutes § 297A.82 (2020), does not violate article X, section 5 of the Minnesota Constitution.

Affirmed.

O P I N I O N

MOORE, III, Justice.

The issue in this case is whether the sales or use tax imposed on the purchase of aircraft, Minn. Stat. § 297A.82 (2020), violates article X, section 5 of the Minnesota Constitution, which allows the Legislature to tax aircraft using the airspace over Minnesota "in lieu of all other taxes." Jeffrey Sheridan and Kirk Lindberg ("relators") purchased aircraft outside Minnesota, paid the use tax, paid a separate annual tax imposed on aircraft under Minn. Stat. § 360.531, subd. 1 (2020), and then requested a refund of the use tax, asserting that it is unconstitutional under the "in lieu" clause in article X, section 5. Respondent Commissioner of Revenue denied the refund. In the ensuing litigation, the Tax Court upheld the constitutionality of the Minnesota sales or use tax for aircraft purchases. Because we conclude that article X, section 5 precludes only the application of duplicative personal property taxes to aircraft, we affirm.

**FACTS**

A brief summary of the relevant taxes is helpful to understanding this dispute. There are two taxes related to aircraft at issue here. Minnesota imposes either a sales tax or use tax on the purchase of aircraft, Minn. Stat. § 297A.82, subds. 1–3, and also imposes an annual tax on aircraft under Minn. Stat. § 360.531, subd. 1. The sales or use tax must be

paid before the aircraft is registered or licensed in Minnesota: "An aircraft must not be registered or licensed in this state unless the applicant presents proof that the sales or use tax imposed by this chapter has been paid or that the transaction is exempt from the sales and use tax." Minn. Stat. § 297A.82, subd. 1. This one-time tax is based on a percentage of the purchase price for the aircraft. Minn. Stat. §§ 297A.62–.63 (generally applying a 6.5 percent tax rate on the purchase price).[1]

The annual tax on aircraft, by contrast, is based on the manufacturer's list price or, if that is unavailable, the list prices of comparable aircraft. Minn. Stat. § 360.531, subds. 1–4. This tax is imposed for the privilege of operating aircraft in the airspace of Minnesota. *See* Minn. Stat. §§ 360.54, 360.58 (2020). We now turn to the facts, which are neither complicated nor disputed.

Sheridan purchased an aircraft outside of Minnesota. He paid $2,921.25 for the use tax and $98.35 for the annual tax. Lindberg similarly purchased an aircraft outside Minnesota. He paid $11,515.62 for the use tax and $418.75 for the annual tax. Sheridan

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[1] The sales tax and use tax are complementary taxes intended to avoid multiple taxes imposed on the same transaction by more than one state. *See Morton Bldgs., Inc. v. Comm'r of Revenue*, 488 N.W.2d 254, 257 (Minn. 1992); *see also* W. Hellerstein, J. Hellerstein, & John A. Swain, *State Taxation* ¶ 16.01[1] (3d ed. 2017) (noting the "complementary nature of sales and use taxes"). The sales tax applies to transactions that occur between the customer and the seller *in* the state of Minnesota, Minn. Stat. § 297A.62, subd. 1, while the use tax applies to transactions between a customer and seller that occur *outside* Minnesota when the property transferred in that transaction is used, stored, distributed, or consumed in the state, Minn. Stat. § 297A.63, subd. 1. *See Morton Bldgs., Inc.*, 488 N.W.2d at 257 (explaining that use taxes are imposed to "counteract the tendency of consumers to shop in states with low or no sales taxes"). For ease of reference, we refer to both the sales and use tax as a "use" tax, unless otherwise stated.

and Lindberg then filed for refunds of their use-tax payments, both of which were denied. They sued the Department of Revenue, arguing that the use tax is unconstitutional under article X, section 5 of the Minnesota Constitution. [2] The parties submitted a joint stipulation of facts and made cross-motions for summary judgment. The Tax Court concluded that the "plain meaning of the Minnesota Constitution does not prohibit both" a use tax and an annual personal property tax on aircraft. *Sheridan v. Comm'r of Revenue*, No. 9366 R, 2020 WL 7250900, at *6 (Minn. T.C. Dec. 4, 2020). Thus, the court denied relators' motion and granted the Commissioner's motion. *Id.* Relators sought review of the decision of the Tax Court by writ of certiorari.

## ANALYSIS

We review Tax Court decisions to determine whether "the Tax Court was without jurisdiction," whether the Tax Court's order "was not justified by the evidence or was not in conformity with law," or whether "the Tax Court committed any other error of law." Minn. Stat. § 271.10, subd. 1 (2020). On review to our court, relators present the same argument they made to the Tax Court. They contend that by imposing a tax in addition to the personal property tax authorized by section 360.531, section 297A.82 violates article X, section 5 of the Minnesota Constitution. That provision reads:

> The legislature may tax aircraft using the air space overlying the state on a more onerous basis than other personal property. *Any such tax on aircraft shall be in lieu of all other taxes.* The legislature may impose the tax on

[2] Relators filed their complaint in district court, which transferred the case to the Tax Court pursuant to *Erie Mining Co. v. Comm'r of Revenue*, 343 N.W.2d 261, 264 (Minn. 1984) ("The district court may either decide [a] constitutional issue or refer the matter . . . to the tax court which will then have subject matter jurisdiction to rule initially on the constitutional issue.").

> aircraft of companies paying taxes under any gross earnings system of taxation notwithstanding that earnings from the aircraft are included in the earnings on which gross earnings taxes are computed. The law may exempt from taxation aircraft owned by a nonresident of the state temporarily using the air space overlying the state.

Minn. Const. art. X, § 5 (emphasis added). For ease of reference, we refer to this provision as the "Aircraft Amendment," and we refer to the second sentence, emphasized above, as the "in-lieu clause." Constitutional interpretation is an issue of law. *Ninetieth Minn. State Senate v. Dayton*, 903 N.W.2d 609, 617 (Minn. 2017). We review the Tax Court's application of law de novo. *Avis Budget Car Rental LLC v. Cnty. of Hennepin*, 937 N.W.2d 446, 449 (Minn. 2020).

Relators' argument is straightforward. They assert that the phrase "in lieu of"—the phrase used in the in-lieu clause—means "instead of." In their view, this phrase means that the Aircraft Amendment unambiguously restricts the Legislature's taxing authority to just one tax on aircraft for all purposes, in place of all other potential taxes. Because both section 360.531 and section 297A.82 impose taxes on aircraft, but the in-lieu clause limits the taxing authority to one type of tax, relators contend that the use tax amounts to unlawful double taxation under the Aircraft Amendment. They therefore urge us to strike down section 297A.82 as unconstitutional.

The Commissioner agrees that the provision is unambiguous. But, he contends, the in-lieu clause does not limit the Legislature to one type of tax on aircraft. In support, the Commissioner points to preamble language of the session law in which the Legislature proposed the Aircraft Amendment, which stated that the proposed tax would be "in lieu of *personal property* taxes," *see* Act of Apr. 24, 1943, ch. 666, § 1, 1943 Minn. Laws 1195,

1195–96 (emphasis added), not "in lieu of *all other* taxes," which is the language in the amendment itself. Relying on the language from the session law, the Commissioner contends that "all other taxes" must be understood in the context of the only tax at issue when the Aircraft Amendment was passed—personal property taxes. The Commissioner therefore concludes that the in-lieu clause unambiguously prohibits only the application of duplicative personal property taxes on aircraft. And because section 297A.82 is not a personal property tax, it is therefore not a duplicative tax barred by the Aircraft Amendment.

In the alternative, assuming we conclude that the Aircraft Amendment is ambiguous, the Commissioner urges us to defer to the Department's longstanding interpretation of that amendment, which is consistent with his position that the in-lieu clause prohibits only duplicative personal property taxes. The Commissioner points out that the Department's interpretation of the Aircraft Amendment has been applied by the Tax Court since 1972, when similar challenges were first raised. *See Lloyd Alsworth & Fairmont Flying Serv., Inc. v. Comm'r of Tax'n*, No. 1614, 1972 WL 124, at *2 (Minn. T.C. Nov. 9, 1972); *see also Onan Corp. v. Comm'r of Tax'n*, No. 1892, 1977 WL 952, at *10 (Minn. T.C. Mar. 30, 1977).

I.

As a duly enacted statute, section 297A.82 enjoys a presumption of constitutionality. *Olson v. Comm'r of Revenue*, 955 N.W.2d 605, 607 n.1 (Minn. 2020). We proceed with caution because the party challenging the constitutionality of a statute

bears a heavy burden to overcome that presumption. *Kimberly-Clark Corp. v. Comm'r of Revenue*, 880 N.W.2d 844, 848 (Minn. 2016).

To resolve the parties' dispute, then, we must interpret the language of the Aircraft Amendment. We have said that the "rules applicable to the construction of statutes" apply to the construction of the constitution. *State ex rel. Mathews v. Houndersheldt*, 186 N.W. 234, 236 (Minn. 1922); *see Clark v. Ritchie*, 787 N.W.2d 142, 146 (Minn. 2010) (stating the rules of statutory interpretation "are equally applicable to the constitution"). Accordingly, we interpret the constitution to effectuate the Legislature's intent. *See State v. Twin City Tel. Co.*, 116 N.W. 835, 836 (Minn. 1908). But in addition to legislative intent, we also strive to effectuate the intent of "the people who ratified" the constitutional provision at issue. *Kahn v. Griffin*, 701 N.W.2d 815, 825 (Minn. 2005). "[W]here the language used is clear, explicit, and unambiguous, the language of the provision itself is the best evidence of" such intent. *State ex rel. Gardner v. Holm*, 62 N.W.2d 52, 55 (Minn. 1954). If the text of the constitution is unambiguous, "it must be taken as it reads—there is no room for construction." *Houndersheldt*, 186 N.W. at 236. Thus, we begin by determining whether the Aircraft Amendment is ambiguous.

A.

Ambiguity arises only if the text is "subject to more than one reasonable interpretation." *State v. Townsend*, 941 N.W.2d 108, 110 (Minn. 2020). In this inquiry, we look to the plain language of the legislative enactment itself, including relevant dictionary definitions of undefined phrases and other sections of the same legislative enactment. *See State v. Prigge*, 907 N.W.2d 635, 638–40 (Minn. 2018).

We therefore begin with the words of article X, section 5. The first two sentences of the provision are crucial and read as follows: "The legislature may tax aircraft using the air space overlying the state on a more onerous basis than other personal property. Any such tax on aircraft shall be in lieu of all other taxes."[3] Confining our review to the plain text for the moment, there is some persuasive force to relators' contention that this provision limits the Legislature's taxing authority to one tax on aircraft instead of all other potential taxes. There is also some merit to the Commissioner's argument that the reference in the first sentence to "other personal property" signals an intent to exclude only other personal property taxes.

The problem with both interpretations, however, is that it is ultimately unclear which tax is referenced under this provision. While the first sentence specifically refers to "other personal property" and thus might describe a personal property tax,[4] it also refers to aircraft "using" air space over Minnesota; thus, the sentence could plausibly refer to a use tax,[5] not a personal property tax. As another possibility, the language may refer to a

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[3] The third sentence, which allows gross-earnings taxes to be imposed in addition to the tax authority provided by the first sentence, is unhelpful. At the time article X, section 5 was passed, gross-earnings taxes were considered direct taxes on property. *See, e.g.*, *Am. Ry. Express Co. v. Holm*, 211 N.W. 467, 468 (Minn. 1926). Thus, regardless of what type of tax is referenced in the first sentence, the third sentence could be read as supporting either relators or the Commissioner.

[4] "A tax on personal property (such as jewelry or household furniture) levied by a state or local government." *Personal Property Tax, Black's Law Dictionary* (11th ed. 2019).

[5] "A tax imposed on the use of certain goods that are bought outside the taxing authority's jurisdiction. Use taxes are designed to discourage the purchase of products that

privilege tax.[6] The text itself is not clear, and neither party adequately confronts this problem. They each assume without explanation that the tax referenced in the first sentence—the one that is apparently authorized under the provision—unambiguously carries either a broad or narrow meaning, depending on how they read section 360.531. We find no textual support for either assumption.

Relators may have relied on the subdivision title, also known as a headnote, to assume that section 360.531 is the statute that authorizes the tax referenced in the first sentence of the constitutional provision; that is, the tax that the constitution states "shall be in lieu of all other taxes" on aircraft. *See* Minn. Stat. § 360.531, subd. 1 (using the headnote, "in lieu tax"). But this headnote "has no value as an aid to statutory construction for a determination of the legislative intent," *In re Dissolution of Sch. Dist. No. 33*, 60 N.W.2d 60, 63 (Minn. 1953), because "headnotes . . . are mere catchwords . . . and are not part of the statute." Minn. Stat. § 645.49 (2020).

Nor can we conclude that the constitutional language is unambiguous by reading it in light of the text of section 360.531 itself. We have said that we will read multiple parts of a statute together, rather than in isolation. *State v. Riggs*, 865 N.W.2d 679, 683 (Minn.

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are not subject to the sales tax." *Use Tax, Black's Law Dictionary* (11th ed. 2019). *See* Minn. Stat. § 297A.61, subd. 6 (2020) (defining "use" as the "exercise of a right or power incident to the ownership of any interest in tangible personal property").

[6] A tax paid for the "privilege of carrying on a business or occupation for which a license or franchise is required." *Privilege Tax, Black's Law Dictionary* (11th ed. 2019); *see also Raymond v. Holm*, 206 N.W. 166, 167 (Minn. 1925) (explaining that the motor-vehicle tax is "primarily a property tax," but also a privilege tax because "motor vehicles are prohibited from using the public highways until the tax is paid").

2015) (applying the whole-statute canon). But as we explained in *Prigge,* statutes enacted at two different points in time in the legislative process are not the "same statute" and thus the whole-statute canon does not permit us to read them together in a pre-ambiguity analysis. 907 N.W.2d at 639–40 (distinguishing between the "related-statutes canon," which applies only "*after* a determination of ambiguity," and the "whole-statute canon," which "does not require ambiguity before it may be applied."). This reasoning is relevant here. In 1943, the Legislature approved the Aircraft Amendment for submission to Minnesota voters in the 1944 election. Act of Apr. 24, 1943, ch. 666, § 1, 1943 Minn. Laws 1195, 1195–96. Two years later and after the amendment passed in the 1944 general election, section 360.531 was enacted by the Legislature. Act of Apr. 19, 1945, ch. 411, § 3, 1945 Minn. Laws. 787, 789 (codified as amended at Minn. Stat. § 360.531). Thus, the whole-statute canon does not allow us to interpret a constitutional provision by reference to a statute that was enacted by the Legislature at a later point in time.

Having determined that the text and headnote of section 360.531 are inapplicable in resolving ambiguity in the Aircraft Amendment, we return to the text of that constitutional provision. Looking only to the plain language, the Aircraft Amendment could reasonably be read in several different ways.

To begin with, the Commissioner's interpretation is reasonable. The first sentence explicitly refers to personal property; therefore, the in-lieu clause could be read to prohibit only duplicative personal property taxes, as the Commissioner argues. And relators' reading—that this provision limits legislative taxing authority to one tax on aircraft instead of all other taxes—is also reasonable. The text itself, however, does not definitively tell us

*which* tax may be imposed and *which* taxes may not. Thus, relators' reading spawns two additional reasonable interpretations of the Aircraft Amendment. It could authorize the tax imposed by section 360.531 and prohibit the tax imposed by section 297A.82—as relators contend. But it could also be read for precisely the opposite proposition: It could allow the tax imposed by section 297A.82 and prohibit the tax imposed by section 360.531. Because the Aircraft Amendment is subject to several reasonable interpretations, we conclude that the language of this provision is ambiguous.[7]

B.

Having concluded that the language of article X, section 5 is ambiguous, we now turn to the canons of construction to resolve that ambiguity. We examine the circumstances under which the Aircraft Amendment was enacted, legislative history, and the occasion, necessity, and object to be attained by its passage. *See* Minn. Stat. § 645.16. In doing so, we keep in mind that we must ascertain and effectuate "the intent of the constitution as indicated by the framers and the people who ratified it." *Kahn*, 701 N.W.2d at 825. Our

[7] In reaching this conclusion, we reject the Commissioner's suggestion that we defer to his longstanding interpretation of this constitutional provision, which has been accepted by the Tax Court. *See Lloyd Alsworth & Fairmont Flying Serv., Inc. v. Comm'r of Tax'n*, No. 1614, 1972 WL 124, at *3 (Minn. T.C. Nov. 9, 1972) (concluding that article X, section 5 "does not prohibit an excise tax on aircraft"). Although we may defer to an agency's longstanding interpretation of ambiguous statutes and regulations, *see* Minn. Stat. § 645.16(8); *Marks v. Comm'r of Revenue*, 875 N.W.2d 321, 327 (Minn. 2016), it is "the duty of *our* court—the Minnesota Supreme Court—to correctly read, interpret, and apply the text of Minnesota's Constitution." *League of Women Voters Minn. v. Ritchie*, 819 N.W.2d 662, 668 (Minn. 2012) (Anderson, Paul, J., dissenting) (emphasis added) (citing *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, (1803)). The Commissioner and the Tax Court reside in the Executive Branch; deferring to the executive's interpretation of the Constitution would encroach on our "province and duty . . . to say what the law is." *Marbury*, 5 U.S at 177; *see also* Minn. Const. art. III, § 1.

analysis therefore proceeds by examining these canons to determine what taxes the Legislature and the Minnesota voters were referring to in the phrase "[a]ny such tax on aircraft shall be in lieu of all other taxes."

1.

We begin with the historical circumstances that led to adoption of the Aircraft Amendment. When this constitutional amendment was voted upon in 1944, Minnesota's taxation scheme looked very different from the one we have today. Dating back to the Territorial Legislature, revenue was raised by relying almost entirely on a system of ad valorem property taxes. W.K. Montague, *The Development and Present Form of the Minnesota Tax System*, Minn. Stat., vol. 18 at 54–55 (1947); *see also* Minn. Stat. (Terr.) chs. 7, 10 (1849). This general property tax system carried over into Statehood. *See generally* Minn. Gen. Stat. ch. 9, §§ 1–22 (1858); *see also* Kathleen A. Gaylord & Susan C. Jacobson, *History of Taxation in Minnesota*, Tax Study Commission at 11 (1979).

Under the general property tax system, each county in Minnesota assessed the market value of real and personal property located in its borders. Montague, *supra* at 62, 73. Assessors calculated the property's "assessed value" by applying a statutory rate to the property's market value. *Id.* This assessed value would then be confirmed and adjusted by the city board, the county board of equalization, and the state commissioner of taxation. *Id.* at 62–63. From there, property was subject to tax levies at the city, county, and state levels. *Id.* at 63, 71–73.

A series of tax reforms in the early 1900's generated other sources of revenue. Gaylord, *supra* at 13. One of those reforms created a new motor-vehicle tax and, at the

same time, removed motor vehicles from the general property tax system. *See* Act of Feb. 21, 1919, ch. 530, §1, 1919 Minn. Laws 737, 737–52 ("Babcock Amendment").[8] Aircraft, however, remained subject to the general property tax for a time afterward. *See State v. Nw. Airlines, Inc.*, 7 N.W.2d 691 (Minn. 1942); *see also* Montague, *supra* at 93. In *Northwest Airlines*, we upheld the application of the general property tax to aircraft. 7 N.W.2d at 698. Because this case dealt with the taxation of airplanes flying across state lines, our holding "raised many problems of public policy with respect to taxation of airplanes, and led to conferences with taxing officials of other states and federal authorities on the subject." Montague, *supra* at 93. In short, subjecting aircraft to the general property tax made it difficult to foster interstate comity.

To address this difficulty, and also to provide funding for the construction of airports and other air-travel infrastructure,[9] the 1943 Legislature approved the Aircraft Amendment for submission to the voters. *See* Act of Apr. 24, 1943, ch. 666, § 1, 1943 Minn. Laws 1195, 1195–96. The legislative history for this amendment shows that, initially, the Aircraft Amendment drew heavily from the Babcock Amendment. *See* Hearing on H.F. 517, H. Comm. Aircraft & Airways, 53rd Minn. Leg., March 11, 1943 (meeting minutes).

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[8] *See also* Minn. Const. of 1857, art. XVI, §§ 2–3 (1920); Act of Mar. 13, 1931, ch. 418, § 1, 1931 Minn. Laws 613, 613–14; Minn. Stat. §§ 168.02, .06, subd. 7 (1941) (explaining that certain vehicles exempt from the motor-vehicle tax would instead be subject to "taxation as personal property").

[9] The Aircraft Amendment was constitutionally necessary for the State to assist in the construction of airports and other air navigation facilities. *See* Minn. Const. of 1857, art. IX, § 5 (1941) ("The state shall never contract any debts for works of internal improvements, or be a party in carrying on such works" except as otherwise authorized by the constitution).

But after some debate, the Legislature made additional alterations and decided to fund airport construction with a separate aircraft tax. *See id.*; Hearing on H.F. 517, H. Comm. Aircraft & Airways, 53rd Minn. Leg., March 5, 1943 (meeting minutes). Once the Aircraft Amendment was approved by the Legislature, it was set to be voted upon at the 1944 general election.

As the Commissioner points out, the preamble language in the session law proposing the Aircraft Amendment described the aircraft tax as one "in lieu of *personal property taxes*." Act of Apr. 24, 1943, ch. 666, § 1, 1943 Minn. Laws at 1195 (emphasis added). Public discussion leading up to the election similarly focused on the amendment's impact on the personal property tax system.

For instance, using language provided by the Attorney General, the Secretary of State published notice in Minnesota newspapers explaining that the purpose of the Aircraft Amendment taxation clause was

> [t]o permit the legislature to provide by law for the taxation of aircraft *on a different basis from other personal property*, thus permitting the imposition of taxes on aircraft similar to those now imposed on motor vehicles, *in lieu of the personal property tax now imposed on aircraft*.

J.A.A. Burnquist, *Proposed Amendment to the Constitution of Minnesota*, Eveleth News-Clarion, Oct. 5, 1944, at 4 (emphasis added); *see* Minn. Stat. § 3.21 (1941) (requiring the Attorney General to provide "a statement of purpose and effect" for proposed constitutional amendments to the Secretary of State at least four months preceding the election, and directing the Secretary of State to give "three weeks' published notice of such statement" in all legal newspapers of the state prior to the election).

Other public information discussed the perceived tax ramifications of the Aircraft Amendment. *See* Theodore B. Knudson, *Air Amendment Vital to Twin Cities' Development as Great Aviation Center*, Hennepin Lawyer, Apr. 1944, at 115. For example, in advocating passage of the amendment, Knudson's article explained the desirability of removing aircraft from the general property taxation system, noting that the "ambulatory character of the airplane" created "confusion between local governmental units" as to who was entitled to proceeds from the general property tax as applied to aircraft. *Id.* at 116.

Finally, the ballot language used in the 1944 election is informative. The Legislature used the following language to explain the tax implications of the amendment when posing the question to voters of whether to amend the Minnesota Constitution:

> Shall the Constitution be amended by adding thereto a new article . . . authorizing the levy of an excise tax on fluids and other means or instrumentalities used for aircraft and airport power purposes, or the business of selling or dealing therein, and taxes on aircraft *in lieu of personal property taxes*.

Secretary of State, *Minnesota Legislative Manual 1945*, 354–55 (1945) (emphasis added).

Thus, in the legislative process and public discourse leading up to the 1944 general election, Minnesotans were told that the in-lieu clause in the Aircraft Amendment was merely meant to remove aircraft from the general property tax system, similar to the change the Legislature had made for motor vehicles some years earlier. As embodied in the constitution after the election, however, the in-lieu clause excludes "all other taxation thereon," instead of merely excluding personal property taxes. *See* Minn. Const. of 1857,

art. XIX, § 4 (1945). One year later, the Legislature passed section 360.531. Act of Apr. 19, 1945, ch. 411, § 3, 1945 Minn. Laws 787, 789.

2.

The above context reveals that Minnesota voters were told, repeatedly, that the in-lieu clause in the Aircraft Amendment merely removed aircraft from the general property taxation system that existed at that time. Given the historical dominance of the general property tax, the language on the ballot used by voters, communications from the Attorney General, and public discussions regarding the Aircraft Amendment's tax impact, no reasonably-informed voter in 1944 would have understood the phrase "all other taxes" in the Aircraft Amendment to extend to taxes that were not then in existence; that is, to have the meaning championed by relators today.

Instead, voters would have understood the phrase "all other taxes" to refer only to the personal property taxes existing at that time. *See State v. M.D.T.*, 831 N.W.2d 276, 285 (Minn. 2013) (Stras, J., concurring) (looking to the "widely understood meaning" of a constitutional provision at the time it was ratified). Relators ask us to depart from that understanding based on the changing statutory structure of Minnesota's tax regime. But to do so would be to ignore the constitutional requirement for voters to approve constitutional amendments, *see* Minn. Const. art. IX § 1 (requiring amendments proposed by the Legislature to be approved "the people"), and our obligation to effectuate the intent of "the people who ratified" the Aircraft Amendment. *Kahn*, 701 N.W.2d at 825; *see also State v. Pett*, 92 N.W.2d 205, 207 (Minn. 1958) ("The right to amend the constitution rests exclusively with the people . . ."); *Julius v. Callahan*, 65 N.W. 267, 267 (Minn. 1895) ("[I]t

is not the action of the legislature in proposing the amendment, but the action of the people in adopting it, that gives it effect as a part of the organic law of the state.").

Moreover, we have observed that "official representation[s] made to the voters" serve as a consideration when we interpret the language of Minnesota's Constitution. *City of Golden Valley v. Wiebesick*, 899 N.W.2d 152, 159 (Minn. 2017). This is a particularly vital consideration in this case. Official representations to the voters—including the ballot language itself and published statements from the Attorney General—communicated only one message regarding the meaning of the in-lieu clause: It would remove aircraft from the general property tax system. We therefore decline to transform the Aircraft Amendment into an evolving preferential tax protection for aircraft owners when the Minnesota voters who ratified that language never understood it to have that effect. They voted to remove aircraft from the general property taxation system, not from any and all future forms of taxation.

In sum, the circumstances under which the Aircraft Amendment was passed, the occasion and necessity for the amendment, and its legislative history lead us to conclude that the phrase "all other taxes" in article X, section 5 of the Minnesota Constitution means "all other *personal property* taxes." And given the timing and language used in section 360.531, we further conclude that the Legislature intended to exercise the authority given to it by the voters through the first sentence of the Aircraft Amendment by passing that

statute.[10] We therefore hold that the in-lieu clause of the Aircraft Amendment prohibits imposition of personal property taxes on aircraft aside from the annual tax imposed by section 360.531.[11] In other words, it prohibits only the imposition of duplicative personal property taxes on aircraft.

II.

Finally, we consider whether section 297A.82 violates the in-lieu clause of the Aircraft Amendment. Because we have concluded that this constitutional provision excludes only duplicative personal property taxes on aircraft, we must classify the type of tax that is imposed by section 297A.82. If it is a personal property tax, it is unconstitutional.

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[10] We do not suggest that the Aircraft Amendment was necessary for the Legislature to impose a new tax on aircraft. We have previously stated that the Legislature's power of taxation is "inherent" and embraces "every conceivable subject of taxation" "except as it is limited by the state or the national Constitution." *Reed v. Bjornson*, 253 N.W. 102, 104 (Minn. 1934). Because of its inherent taxation power, the Legislature is not necessarily required to pass a constitutional amendment anytime it wishes to impose a new tax. *See* Henry Rottschaefer, *A State Income Tax and the Minnesota Constitution*, 12 Minn. L. Rev. 683, 683–84 (1928) (explaining that the motor-vehicle tax was adopted after a constitutional amendment that functioned "to allocate the proceeds of such taxes to prescribed purposes" rather "than to remedy any defect in legislative power to impose them," even though that may also have been a purpose, and stating it "might almost be said that we are acquiring a habit of amending our constitution whenever we wish to resort to theretofore untouched sources of revenue."). We merely note that section 360.531 was passed by the Legislature in response to whatever *apparent* taxing authority was created in the first sentence of the Aircraft Amendment.

[11] We have previously described the motor-vehicle tax, upon which section 360.531 was based, as "a blended property and privilege tax." *State ex rel. Ry. Express Agency v. Holm*, 295 N.W. 297, 297 (Minn. 1940). The fact that we understood the type of tax imposed by section 360.531 to be a type of property tax underscores our conclusion that the in-lieu clause prohibits all other personal property taxes on aircraft.

Relators do not assert a clear position on the type of tax imposed by section 297A.82 because their position is that the "in lieu" tax imposed by section 360.531 is the only one that is permitted by the constitution. The Commissioner, for his part, argues that section 297A.82 imposes a use tax on aircraft and is thus a type of excise tax.

We have classified taxes based on the label given to them by the Legislature, *see Soo Line R.R. Co. v. Comm'r of Revenue*, 377 N.W.2d 453, 455 (Minn. 1985), and the methods by which they are imposed. *See State v. Nw. States Portland Cement Co.*, 84 N.W.2d 373, 380 (Minn. 1957), *aff'd*, 358 U.S. 450 (1959).

Here, the Legislature quite clearly labeled the tax imposed by section 297A.82 as a sales or use tax. *See* Minn. Stat. §§ 297A.62–.63. Sales and use taxes are also a type of excise tax. *See Excise Tax, Black's Law Dictionary* (11th ed. 2019) (defining an "excise tax" as a "tax imposed on the manufacture, sale, or use of goods"). Moreover, the methods used to impose the tax authorized by section 297A.82 confirm that it is an excise tax. The tax is based on a percentage of the purchase price of the sale of an aircraft and it is collected at the time of the sale, Minn. Stat. § 297A.62, subd. 1; or for a use tax, when the property is brought into the state for use, again based on the sales price, Minn. Stat. § 297A.63, subd. 1. Additionally, the tax is imposed on a specific transaction—the sale or use of the plane—as measured by the "total amount of consideration" paid. Minn. Stat. § 297A.61, subds. 4, 6–7. All these characteristics indicate that section 297A.82 imposes an excise tax.

We therefore agree with the Commissioner and the Tax Court that section 297A.82 imposes an excise tax on sales and purchases of aircraft.[12] Because it is not a personal property tax on aircraft, we hold that it is does not violate the in-lieu of clause in article X, section 5 of the Minnesota Constitution.

## CONCLUSION

For the reasons stated above, we affirm the decision of the Tax Court.

Affirmed.

[12] Relators contend that the distinction between an excise tax and a property tax is simply an "amusing philosophical indulgence" that we should not entertain. This argument is not well founded given that we have repeatedly recognized this distinction. "The subject of an ad valorem tax is property, and that of an excise tax is a right or privilege." *Reuben L. Anderson-Cherne, Inc. v. Comm'r of Tax'n*, 226 N.W.2d 611, 614 (Minn. 1975); *see also Color-Ad Packaging, Inc. v. Comm'r of Revenue*, 428 N.W.2d 806, 806–07 (Minn. 1988) (explaining that sales tax is on "the freedom of purchase" and use tax is on "the enjoyment of that which was purchased"); *Pullman Co. v. Comm'r of Tax'n*, 25 N.W.2d 838, 846 (Minn. 1947) (Magney, J., dissenting) (stating that excise and property taxes "relate to distinct and different subjects").