

PROPERTY ASSESSMENT AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill addresses the property tax assessment of special purpose properties.

Highlighted Provisions:

This bill:

- ▶ defines special purpose property and other terms;
- ▶ requires a county assessor to consider certain factors in determining the fair market value of a special purpose property; and
- ▶ provides that provisions requiring a county assessor to consider certain factors in determining the fair market value of a special purpose property apply to the privilege tax.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-4-101, as last amended by Laws of Utah 2016, Chapter 366

ENACTS:

59-2-301.8, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-2-301.8** is enacted to read:

59-2-301.8. Definitions -- Assessment of special purpose property.

(1) As used in this section:

(a) "Diminished productive value" means that a property with improvements has a significantly reduced ability to generate income as a result of not being used for the purpose for which the improvements were built.

33 (b) "Special purpose property" means a property with improvements that have a unique
34 physical design or layout, were constructed of special materials, or have some other physical
35 attribute that:

36 (i) restricts the utility of the property to the purpose for which the improvements were
37 built;

38 (ii) due to financial considerations, restricts the ability of another occupant to convert
39 the property to another use; and

40 (iii) limits the market for the property.

41 (2) (a) In assessing the fair market value of a special purpose property, a county
42 assessor shall consider whether the special purpose property has diminished productive value.

43 (b) In assessing the fair market value of a special purpose property that does not have
44 diminished productive value, a county assessor shall consider, as a primary factor, the cost of
45 constructing improvements that are equivalent to the improvements currently on the property.

46 (c) In assessing the fair market value of a special purpose property that does not have
47 diminished productive value and that is being rented or leased, a county assessor shall consider
48 the terms of the agreement that provides for the rental or lease of the special purpose property.

49 (3) (a) Subsection (2)(b) applies to the extent a county assessor knows, or reasonably
50 should have known:

51 (i) that the property is a special purpose property; and

52 (ii) the purpose for which the special purpose property was built.

53 (b) Subsection (2)(c) applies to the extent a county assessor knows, or reasonably
54 should have known, the terms of the rent or lease agreement.

55 (4) This section does not prohibit a county assessor from including as part of a
56 determination of the fair market value of property any other factor affecting the fair market
57 value of the property.

58 Section 2. Section **59-4-101** is amended to read:

59 **59-4-101. Tax basis -- Exceptions -- Assessment and collection.**

60 (1) (a) Except as provided in Subsections (1)(b), (1)(c), and (3), a tax is imposed on the
61 possession or other beneficial use enjoyed by any person of any real or personal property that is
62 exempt for any reason from taxation, if that property is used in connection with a business
63 conducted for profit.

64 (b) Any interest remaining in the state in state lands after subtracting amounts paid or
65 due in part payment of the purchase price as provided in Subsection 59-2-1103(2)(b)(i) under a
66 contract of sale is subject to taxation under this chapter regardless of whether the property is
67 used in connection with a business conducted for profit.

68 (c) The tax imposed under Subsection (1)(a) does not apply to property exempt from
69 taxation under Section 59-2-1114.

70 (2) (a) The tax imposed under this chapter is the same amount that the ad valorem
71 property tax would be if the possessor or user were the owner of the property.

72 (b) The amount of any payments that are made in lieu of taxes is credited against the
73 tax imposed on the beneficial use of property owned by the federal government.

74 (3) A tax is not imposed under this chapter on the following:

75 (a) the use of property that is a concession in, or relative to, the use of a public airport,
76 park, fairground, or similar property that is available as a matter of right to the use of the
77 general public;

78 (b) the use or possession of property by a religious, educational, or charitable
79 organization;

80 (c) the use or possession of property if the revenue generated by the possessor or user
81 of the property through its possession or use of the property inures only to the benefit of a
82 religious, educational, or charitable organization and not to the benefit of any other person;

83 (d) the possession or other beneficial use of public land occupied under the terms of an
84 agricultural lease or permit issued by the United States or this state;

85 (e) the use or possession of any lease, permit, or easement unless the lease, permit, or
86 easement entitles the lessee or permittee to exclusive possession of the premises to which the
87 lease, permit, or easement relates;

88 (f) the use or possession of property by a public agency, as defined in Section
89 11-13-103, to the extent that the ownership interest of the public agency in that property is
90 subject to a fee in lieu of ad valorem property tax under Section 11-13-302; or

91 (g) the possession or beneficial use of public property as a tollway by a private entity
92 through a tollway development agreement as defined in Section 72-6-202.

93 (4) For purposes of Subsection (3)(e):

94 (a) every lessee, permittee, or other holder of a right to remove or extract the mineral

95 covered by the holder's lease, right permit, or easement, except from brines of the Great Salt
96 Lake, is considered to be in possession of the premises, regardless of whether another party has
97 a similar right to remove or extract another mineral from the same property; and

98 (b) a lessee, permittee, or holder of an easement still has exclusive possession of the
99 premises if the owner has the right to enter the premises, approve leasehold improvements, or
100 inspect the premises.

101 (5) A tax imposed under this chapter is assessed to the possessors or users of the
102 property on the same forms, and collected and distributed at the same time and in the same
103 manner, as taxes assessed owners, possessors, or other claimants of property that is subject to
104 ad valorem property taxation. The tax is not a lien against the property, and no tax-exempt
105 property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.

106 (6) Sections 59-2-301.1 through [~~59-2-301.7~~] 59-2-301.8 apply for purposes of
107 assessing a tax under this chapter.

108 Section 3. **Effective date.**

109 This bill takes effect on January 1, 2018.