

**PROPERTY TAX APPORTIONMENT FOR
CERTAIN PROPERTY**

1999 GENERAL SESSION

STATE OF UTAH

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17 AN ACT RELATING TO THE PROPERTY TAX ACT; PROVIDING DEFINITIONS;
18 ESTABLISHING THE METHOD FOR THE STATE TAX COMMISSION TO APPORTION TO
19 TAX AREAS THE TAXABLE VALUE OF CERTAIN MOBILE FLIGHT EQUIPMENT;
20 MAKING TECHNICAL CHANGES; AND PROVIDING AN EFFECTIVE DATE.

21 This act affects sections of Utah Code Annotated 1953 as follows:

22 AMENDS:

23 **59-2-102**, as last amended by Chapters 264 and 290, Laws of Utah 1998

24 **59-2-801**, as last amended by Chapter 322, Laws of Utah 1998

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

26 Section 1. Section **59-2-102** is amended to read:

27 **59-2-102. Definitions.**

28 As used in this chapter and title:

29 (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of
30 engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness

31 certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for
32 agricultural and pest control purposes.

33 (2) "Air charter service" means an air carrier operation which requires the customer to hire
34 an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

35 (3) "Air contract service" means an air carrier operation available only to customers who
36 engage the services of the carrier through a contractual agreement and excess capacity on any trip
37 and is not available to the public at large.

38 (4) "Aircraft" is as defined in Section 72-10-102.

39 [~~(4)~~] (5) "Airline" means any air carrier operating interstate routes on a scheduled basis
40 which offers to fly passengers or cargo on the basis of available capacity on regularly scheduled
41 routes.

42 [~~(5)~~] (6) "Assessment roll" means a permanent record of the assessment of property as
43 assessed by the county assessor and the commission and may be maintained manually or as a
44 computerized file as a consolidated record or as multiple records by type, classification, or
45 categories.

46 [~~(6)~~] (7) "Certified revenue levy" means a property tax levy that provides the same amount
47 of ad valorem property tax revenue as was collected for the prior year, plus new growth, but
48 exclusive of revenue from collections from redemptions, interest, and penalties.

49 [~~(7)~~] (8) "County-assessed commercial vehicle" means:

50 (a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section
51 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in
52 furtherance of the owner's commercial enterprise;

53 (b) any passenger vehicle owned by a business and used by its employees for
54 transportation as a company car or vanpool vehicle; and

55 (c) vehicles which are:

56 (i) especially constructed for towing or wrecking, and which are not otherwise used to
57 transport goods, merchandise, or people for compensation;

58 (ii) used or licensed as taxicabs or limousines;

59 (iii) used as rental passenger cars, travel trailers, or motor homes;

60 (iv) used or licensed in this state for use as ambulances or hearses;

61 (v) especially designed and used for garbage and rubbish collection; or

62 (vi) used exclusively to transport students or their instructors to or from any private,
63 public, or religious school or school activities.

64 (9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801,
65 "designated tax area" means a tax area located within a school district.

66 (b) "Designated tax area" does not include a tax area located within a school district if one
67 or more of the overlapping boundaries that creates the tax area is a city or town, unless the
68 boundaries of the school district and the boundaries of the city or town are identical.

69 [(8)] (10) (a) "Escaped property" means any property, whether personal, land, or any
70 improvements to the property, subject to taxation and is:

71 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
72 to the wrong taxpayer by the assessing authority;

73 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
74 comply with the reporting requirements of this chapter; or

75 (iii) undervalued because of errors made by the assessing authority based upon incomplete
76 or erroneous information furnished by the taxpayer.

77 (b) Property which is undervalued because of the use of a different valuation methodology
78 or because of a different application of the same valuation methodology is not "escaped property."

79 [(9)] (11) "Fair market value" means the amount at which property would change hands
80 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and
81 both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market
82 value" shall be determined using the current zoning laws applicable to the property in question,
83 except in cases where there is a reasonable probability of a change in the zoning laws affecting that
84 property in the tax year in question and the change would have an appreciable influence upon the
85 value.

86 [(10)] (12) "Farm machinery and equipment," for purposes of the exemption provided
87 under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities,
88 feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters,
89 tillage tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery or
90 equipment used primarily for agricultural purposes; but does not include vehicles required to be
91 registered with the Motor Vehicle Division or vehicles or other equipment used for business
92 purposes other than farming.

93 [~~(11)~~] (13) "Geothermal fluid" means water in any form at temperatures greater than 120
94 degrees centigrade naturally present in a geothermal system.

95 [~~(12)~~] (14) "Geothermal resource" means:

96 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

97 (b) the energy, in whatever form, including pressure, present in, resulting from, created by,
98 or which may be extracted from that natural heat, directly or through a material medium.

99 [~~(13)~~] (15) "Improvements" includes all buildings, structures, fixtures, fences, and
100 improvements erected upon or affixed to the land, whether the title has been acquired to the land
101 or not.

102 [~~(14)~~] (16) "Intangible property:"

103 (a) means property that is capable of private ownership separate from tangible property;
104 and

105 (b) includes:

106 (i) moneys;

107 (ii) credits;

108 (iii) bonds;

109 (iv) stocks;

110 (v) representative property;

111 (vi) franchises;

112 (vii) licenses;

113 (viii) trade names;

114 (ix) copyrights; and

115 (x) patents.

116 [~~(15)~~] (17) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

117 [~~(16)~~] (18) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
118 valuable mineral.

119 [~~(17)~~] (19) "Mining" means the process of producing, extracting, leaching, evaporating,
120 or otherwise removing a mineral from a mine.

121 (20) (a) "Mobile flight equipment" means tangible personal property that is:

122 (i) owned or operated by an:

123 (A) air charter service;

124 (B) air contract service; or
 125 (C) airline; and
 126 (ii) (A) capable of flight;
 127 (B) attached to an aircraft that is capable of flight; or
 128 (C) contained in an aircraft that is capable of flight if the tangible personal property is
 129 intended to be used:
 130 (I) during multiple flights; and
 131 (II) during a takeoff, flight, or landing; and
 132 (III) as a service provided by an air charter service, air contract service, or airline.
 133 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine
 134 that is rotated:
 135 (A) at regular intervals; and
 136 (B) with an engine that is attached to the aircraft.
 137 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 138 commission may make rules defining the term "regular intervals."
 139 [(18)] (21) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,
 140 sand, rock, gravel, and all carboniferous materials.
 141 [(19)] (22) "Personal property" includes:
 142 (a) every class of property as defined in Subsection [(20)] (23) which is the subject of
 143 ownership and not included within the meaning of the terms "real estate" and "improvements";
 144 (b) gas and water mains and pipes laid in roads, streets, or alleys;
 145 (c) bridges and ferries; and
 146 (d) livestock which, for the purposes of the exemption provided under Section 59-2-1112,
 147 means all domestic animals, honeybees, poultry, fur-bearing animals, and fish.
 148 [(20)] (23) (a) "Property" means property that is subject to assessment and taxation
 149 according to its value.
 150 (b) "Property" does not include intangible property as defined in this section.
 151 [(21)] (24) "Public utility," for purposes of this chapter, means the operating property of
 152 a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
 153 company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation
 154 where the company performs the service for, or delivers the commodity to, the public generally

155 or companies serving the public generally, or in the case of a gas corporation or an electrical
156 corporation, where the gas or electricity is sold or furnished to any member or consumers within
157 the state for domestic, commercial, or industrial use. Public utility also means the operating
158 property of any entity or person defined under Section 54-2-1 except water corporations.

159 [~~22~~] (25) "Real estate or property" includes:

160 (a) the possession of, claim to, ownership of, or right to the possession of land;

161 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
162 individuals or corporations growing or being on the lands of this state or the United States, and all
163 rights and privileges appertaining to these; and

164 (c) improvements.

165 [~~23~~] (26) "Residential property," for the purposes of the reductions and adjustments
166 under this chapter, means any property used for residential purposes as a primary residence. It
167 does not include property used for transient residential use or condominiums used in rental pools.

168 (27) For purposes of Subsection 59-2-801(1)(e), "route miles" means the number of miles
169 calculated by the commission that is:

170 (a) measured in a straight line by the commission; and

171 (b) equal to the distance between a geographical location that begins or ends:

172 (i) at a boundary of the state; and

173 (ii) where an aircraft:

174 (A) takes off; or

175 (B) lands.

176 [~~24~~] (28) (a) "State-assessed commercial vehicle" means:

177 (i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to
178 transport passengers, freight, merchandise, or other property for hire; or

179 (ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports
180 the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

181 (b) "State-assessed commercial vehicle" does not include vehicles used for hire which are
182 specified in Subsection [~~7~~] (8)(c) as county-assessed commercial vehicles.

183 [~~25~~] (29) "Taxable value" means fair market value less any applicable reduction allowed
184 for residential property under Section 59-2-103.

185 (30) "Tax area" means a geographic area created by the overlapping boundaries of one or

186 more taxing entities.

187 ~~[(26)]~~ (31) "Taxing entity" means any county, city, town, school district, special taxing
188 district, or any other political subdivision of the state with the authority to levy a tax on property.

189 ~~[(27)]~~ (32) "Tax roll" means a permanent record of the taxes charged on property, as
190 extended on the assessment roll and may be maintained on the same record or records as the
191 assessment roll or may be maintained on a separate record properly indexed to the assessment roll.
192 It includes tax books, tax lists, and other similar materials.

193 Section 2. Section **59-2-801** is amended to read:

194 **59-2-801. Apportionment of property assessed by commission.**

195 (1) ~~[After all objections are heard and disposed of and before]~~ Before May 25 of each year,
196 the commission shall apportion the to each tax area the total assessment of all of the property
197 ~~[assessed by it to the several tax areas]~~ the commission assesses as [follows:] provided in
198 Subsections (1)(a) through (f).

199 (a) (i) ~~[all property of public utilities]~~ The commission shall apportion the assessments of
200 the property described in Subsection (1)(a)(ii):

201 (A) to each tax area through which the public utility or company described in Subsection
202 (1)(a)(ii) operates; and

203 (B) in proportion to the property's value in each tax area.

204 (ii) Subsection (1)(a)(i) applies to property owned by:

205 (A) a public utility, except for the rolling stock~~[- and all property]~~ of a public utility;

206 (B) a pipeline~~[-]~~ company;

207 (C) a power~~[-]~~ company;

208 (D) a canal~~[- and]~~ company; or

209 (E) an irrigation ~~[companies, to each tax area through which the public utility, pipeline,~~
210 power, canal, or irrigation company operates, in proportion to its value in each tax area;] company.

211 ~~[(b) the rolling stock of all railroads and street railroads, except the rolling stock included~~
212 ~~in Subsection (2);]~~

213 (b) The commission shall apportion the assessments of the rolling stock of a railroad:

214 (A) to the tax areas through which railroads operate~~[-]~~; and

215 (B) in the proportion [which] that the length of the main tracks, sidetracks, passing tracks,
216 switches, and tramways of [those] the railroads in each tax area bears to the total length of the main

217 tracks, ~~[passing tracks and]~~ sidetracks, passing tracks, switches, and tramways in the state~~[, with~~
218 ~~rolling stock of standard and narrow gauge railroads apportioned to their standard and narrow~~
219 ~~gauge lines, respectively;]~~.

220 (c) The commission shall apportion the assessments of the property of a car [companies,]
221 company to [the several]:

222 (i) each tax [areas] area in which [railroads are] a railroad is operated[;] and

223 (ii) in the proportion [which] that the length of the main tracks, passing tracks, sidetracks,
224 switches, and tramways of all of the railroads in each tax area bears to the total length of the main
225 tracks, passing tracks, sidetracks, switches, and tramways of all of the railroads in the state[; and].

226 (d) (i) The commission shall apportion the assessments of the property described in
227 Subsection (1)(d)(ii) [the assessment of all mines and mining claims and properties respectively]
228 to [the] each tax area in which the [mines or mining claims and properties assessed are] property
229 is located.

230 (ii) Subsection (1)(d)(i) applies to the following property:

231 (A) mines;

232 (B) mining claims; or

233 (C) mining property.

234 (e) (i) The commission shall apportion the assessments of the property described in
235 Subsection (1)(e)(ii) to:

236 (A) each designated tax area; and

237 (B) in the proportion that the route miles in each designated tax area bear to the total route
238 miles in the state.

239 (ii) Subsection (1)(e)(i) applies to the mobile flight equipment owned by an:

240 (A) air charter service;

241 (B) air contract service; or

242 (C) airline.

243 (f) (i) The commission shall apportion the assessments of the property described in
244 Subsection (1)(f)(ii) to each taxing area in which the property is located as of January 1 of each
245 year.

246 (ii) Subsection (1)(f)(i) applies to the real and tangible personal property, other than mobile
247 flight equipment, owned by an:

248 (A) air charter service;

249 (B) air contract service; or

250 (C) airline.

251 (2) (a) (i) (A) State-assessed commercial vehicles that weigh 12,001 pounds or more shall
 252 be taxed at a statewide average rate which is calculated from the overall county average tax rates
 253 from the preceding year, exclusive of the property subject to the statewide uniform fee, weighted
 254 by lane miles of principal routes in each county.

255 [(ii)] (B) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
 256 the commission shall adopt rules to define "principal routes."

257 [(b)] (ii) State-assessed commercial vehicles that weigh 12,000 pounds or less are subject
 258 to the uniform fee provided in Section 59-2-405.1.

259 [(3)] (b) The combined revenue from all state-assessed commercial vehicles shall be
 260 apportioned to the counties based on:

261 [(a)] (i) 40% by the percentage of lane miles of principal routes within each county as
 262 determined by the commission; and

263 [(b)] (ii) 60% by the percentage of total state-assessed vehicles having business situs in
 264 each county.

265 [(4)] (c) At least quarterly, the commission shall apportion the total taxes paid on
 266 state-assessed commercial vehicles to the counties.

267 [(5)] (d) Each county shall apportion its share of the revenues under this Subsection (2)
 268 to the taxing entities within its boundaries in the same proportion as the assessments of other:

269 (i) real [~~and~~] property;

270 (ii) tangible personal property; and [~~other state-assessed~~]

271 (iii) property [values] assessed by the commission.

272 Section 3. **Effective date.**

273 This act takes effect on January 1, 2000.

Legislative Review Note

as of 2-19-99 1:55 PM

This legislation raises the following constitutional or statutory concerns:

This legislation codifies a Utah State Tax Commission apportionment methodology that is currently the subject of litigation before the Utah Supreme Court. The issues before the Court include whether the Utah State Tax Commission's methodology violates Utah Constitution Article XIII, Section 10, or federal law.

Office of Legislative Research and General Counsel