

PROPERTY TAX EXEMPTION AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Gordon E. Snow

LONG TITLE

General Description:

This bill amends the Property Tax Act to provide for a proportional property tax for certain property that is eligible for a property tax exemption.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that, retroactive to January 1, 2004, when property is acquired by a nonprofit entity and used exclusively for religious, charitable, or educational purposes, the nonprofit entity shall only be required to collect and pay a proportional tax based on the amount of time that the property was not owned by the nonprofit entity;
 - ▶ provides that, for property acquired after December 31, 2005, when the property ceases to qualify for an exemption for property owned by a nonprofit entity and used exclusively for religious, charitable, or educational purposes or a government exemption because of a change in the ownership of the property, the new owner shall pay a proportional tax based upon the period of time:
 - beginning on the day that the new owner acquired the property; and
 - ending on the last day of the calendar year during which the new owner acquired the property;
 - ▶ provides that, for property acquired after December 31, 2005, when the property ceases to qualify for an exemption for property owned by a nonprofit entity and used exclusively for religious, charitable, or educational purposes or a government

exemption because of a change in ownership of the property, the new owner and previous owner of the property are required to report the acquisition of the property to the county assessor within 30 days from the day that the new owner acquired the property;

- ▶ modifies the deadlines:
 - for applying for a property tax exemption for property owned by a nonprofit entity that is used exclusively for religious, charitable, or educational purposes;
 - for a county board of equalization to hold a hearing and render a decision on a property tax exemption; and
 - for a county board of equalization to send a copy of the decision described in the previous paragraph to the person that applied for the exemption; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-1101, as last amended by Chapter 333, Laws of Utah 2004

59-2-1102, as last amended by Chapter 169, Laws of Utah 2002

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

Section 1. Section **59-2-1101** is amended to read:

59-2-1101. Exemption of certain property -- Proportional payments for certain property -- County legislative body authority to adopt rules or ordinances.

(1) For purposes of this section:

(a) "exclusive use exemption" means a property tax exemption under Subsection (3)(d), for property owned by a nonprofit entity that is used exclusively for religious, charitable, or

educational purposes;

(b) "government exemption" means a property tax exemption provided under Subsection (3)(a), (b), or (c); and

(c) "tax relief" means an exemption, deferral, or abatement that is authorized by this part.

~~[(+)] (2) (a) Except as provided in Subsection [(+)] (2)(b) or (c), [the exemptions, deferrals, and abatements authorized by this part]~~ tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection ~~[(+)] (2)(a), [if the claimant is a federal, state, or political subdivision entity under Subsection (2)(a), (b), or (c), the entity]~~ a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the ~~[entity:]~~ claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a), (b), or (c); or

(ii) pursuant to Subsection (3)(d):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Notwithstanding Subsection ~~[(+)] (2)(a),~~ a claimant may be allowed a veteran's exemption in accordance with Sections 59-2-1104 and 59-2-1105 regardless of whether the claimant is the owner of the property as of January 1 of the year the exemption is claimed if the claimant is:

(i) the unmarried surviving spouse of:

(A) a deceased disabled veteran as defined in Section 59-2-1104; or

(B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104; or

(ii) a minor orphan of:

(A) a deceased disabled veteran as defined in Section 59-2-1104; or

(B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104.

~~[(2)]~~ (3) The following property is exempt from taxation:

(a) property exempt under the laws of the United States;

(b) property of:

(i) the state;

(ii) school districts; and

(iii) public libraries;

(c) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(i) counties;

(ii) cities;

(iii) towns;

(iv) special districts; and

(v) all other political subdivisions of the state, ~~except as provided in Title 11, Chapter 13, Interlocal Cooperation Act~~;

(d) property owned by a nonprofit entity which is used exclusively for religious, charitable, or educational purposes;

(e) places of burial not held or used for private or corporate benefit;

(f) farm equipment and machinery;

(g) intangible property; and

(h) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103;

(i) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(ii) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

- (i) beginning on the day that the new owner acquired the property; and
- (ii) ending on the last day of the calendar year during which the new owner acquired the property; and
- (b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

~~[(3)]~~ (6) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part; and

(b) designate one or more persons to perform the functions given the county under this part.

Section 2. Section **59-2-1102** is amended to read:

59-2-1102. Determination of exemptions by board of equalization -- Appeal -- Application for exemption -- Annual statement -- Exceptions.

(1) (a) For property assessed under Part 3, County Assessment, the county board of equalization may, after giving notice in a manner prescribed by rule, determine whether certain property within the county is exempt from taxation.

(b) The decision of the county board of equalization described in Subsection (1)(a) shall:

(i) be in writing; and

(ii) include:

(A) a statement of facts; and

(B) the statutory basis for its decision.

(c) ~~[(A)]~~ Except as provided in Subsection (11)(a), a copy of the decision described in

Subsection (1)(a) shall be sent on or before May 15 to the person [~~or organization~~] applying for the exemption.

(2) The county board of equalization shall notify an owner of exempt property that has previously received an exemption but failed to file an annual statement in accordance with Subsection (9)(c), of the county board of equalization's intent to revoke the exemption on or before April 1.

(3) (a) Except as provided in Subsection (8) and subject to Subsection (9), a reduction may not be made under this part in the value of property and an exemption may not be granted under this part unless the party affected or the party's agent:

(i) makes and files with the county board of equalization a written application for the reduction or exemption, verified by signed statement; and

(ii) appears before the county board of equalization and shows facts upon which it is claimed the reduction should be made, or exemption granted.

(b) Notwithstanding Subsection (9), the county board of equalization may waive:

(i) the application or personal appearance requirements of Subsection (3)(a), (4)(b), or (9)(a); or

(ii) the annual statement requirements of Subsection (9)(c).

(4) (a) Before the county board of equalization grants any application for exemption or reduction, the county board of equalization may examine [~~on~~] under oath the person or agent making the application.

(b) Except as provided in Subsection (3)(b), a reduction may not be made or exemption granted unless the person or the agent making the application attends and answers all questions pertinent to the inquiry.

(5) [~~Upon~~] For the hearing [~~of~~] on the application, the county board of equalization may subpoena any witnesses, and hear and take any evidence in relation to the pending application.

(6) [~~The~~] Except as provided in Subsection (11)(b), the county board of equalization shall hold hearings and render a written decision to determine any exemption on or before May 1 in each year.

(7) Any property owner dissatisfied with the decision of the county board of equalization regarding any reduction or exemption may appeal to the commission under Section 59-2-1006.

(8) Notwithstanding Subsection (3)(a), a county board of equalization may not require an owner of property to file an application in accordance with this section in order to claim an exemption for the property under the following:

- (a) Subsections 59-2-1101[(2)](3)(a) through (c);
- (b) Subsection 59-2-1101[(2)](3)(f) or (g);
- (c) Section 59-2-1110;
- (d) Section 59-2-1111;
- (e) Section 59-2-1112;
- (f) Section 59-2-1113; or
- (g) Section 59-2-1114.

(9) (a) Except as provided in Subsections (3)(b) and (9)(b), for property described in Subsection 59-2-1101[(2)](3)(d) or (e), a county board of equalization shall, consistent with Subsection (10), require an owner of that property to file an application in accordance with this section in order to claim an exemption for that property.

(b) Notwithstanding Subsection (9)(a), a county board of equalization may not require an owner of property described in Subsection 59-2-1101[(2)](3)(d) or (e) to file an application under Subsection (9)(a) if:

- (i) (A) the owner filed an application under Subsection (9)(a); or
- (B) the county board of equalization waived the application requirements in accordance with Subsection (3)(b);
- (ii) the county board of equalization determines that the owner may claim an exemption for that property; and
- (iii) the exemption described in Subsection (9)(b)(ii) is in effect.

(c) (i) Except as provided in Subsection (3)(b), for the time period that an owner is granted an exemption in accordance with this section for property described in Subsection 59-2-1101[(2)](3)(d) or (e), a county board of equalization shall require the owner to file an

annual statement on a form prescribed by the commission establishing that the property continues to be eligible for the exemption.

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules providing:

(A) the form for the annual statement required by Subsection (9)(c)(i);

(B) the contents of the form for the annual statement required by Subsection (9)(c)(i);

and

(C) procedures and requirements for making the annual statement required by Subsection (9)(c)(i).

(iii) The commission shall make the form described in Subsection (9)(c)(ii)(A) available to counties.

(10) (a) For purposes of this Subsection (10), "exclusive use exemption" is as defined in Section 59-2-1101.

(b) (i) For purposes of Subsection (1)(a), and except as provided in Subsections (10)(b)(ii) and (iii), when a person acquires property on or after January 1 that qualifies for an exclusive use exemption, that person may apply for the exclusive use exemption on or before the later of:

(A) the day set by rule as the deadline for filing a property tax exemption application; or

(B) 30 days after the day on which the property is acquired.

(ii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after January 1, 2004, and before January 1, 2005, that qualifies for an exclusive use exemption, may apply for the exclusive use exemption for the 2004 calendar year on or before September 30, 2005.

(iii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after January 1, 2005, and before January 1, 2006, that qualifies for an exclusive use exemption, may apply for the exclusive use exemption for the 2005 calendar year on or before the later of:

(A) September 30, 2005; or

(B) 30 days after the day on which the property is acquired.

(11) (a) Notwithstanding Subsection (1)(c), if an application for an exemption is filed under Subsection (10), a county board of equalization shall send a copy of the decision described in Subsection (1)(c) to the person applying for the exemption on or before the later of:

(i) May 15; or

(ii) 45 days after the day on which the application for the exemption is filed.

(b) Notwithstanding Subsection (6), if an application for an exemption is filed under Subsection (10), a county board of equalization shall hold the hearing and render the decision described in Subsection (6) on or before the later of:

(i) May 1; or

(ii) 30 days after the day on which the application for the exemption is filed.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 4. Retrospective operation.

This bill has retrospective operation to January 1, 2004.