

Representative John Dougall proposes the following substitute bill:

PROPERTY TAX MODIFICATIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Dougall

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill makes changes to the property taxation of personal property.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the property taxation of certain personal property; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2013.

Utah Code Sections Affected:

AMENDS:

59-2-108, as enacted by Laws of Utah 2008, Chapter 61

59-2-1115, as last amended by Laws of Utah 2008, Chapters 61 and 382

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

Section 1. Section **59-2-108** is amended to read:



26 **59-2-108. Depreciation schedule for certain taxable tangible personal property.**

27 (1) As used in this section:

28 (a) (i) "Acquisition cost" means all costs required to put an item of tangible personal
29 property into service; and

30 (ii) includes:

31 (A) the purchase price for a new or used item;

32 (B) the cost of freight and shipping;

33 (C) the cost of installation, engineering, erection, or assembly; and

34 (D) sales and use taxes.

35 [~~(b) "Expensed personal property" means an item of taxable tangible personal property~~
36 ~~that:]~~

37 [~~(i) has an acquisition cost of \$1,000 or less; and]~~

38 [~~(ii) a person elects to have assessed according to a schedule described in Subsection~~
39 ~~(4):]~~

40 [~~(c)~~] (b) (i) "Item of taxable tangible personal property" does not include an
41 improvement to real property or a part that will become an improvement.

42 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
43 commission may make rules defining the term "item of taxable tangible personal property."

44 [~~(d) (i) "Short life expensed personal property" means expensed personal property that~~
45 ~~is the same type as the following personal property:]~~

46 [~~(A) short life property;]~~

47 [~~(B) short life trade fixtures; or]~~

48 [~~(C) computer hardware;]~~

49 [~~(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
50 ~~the commission may make rules defining the following terms:]~~

51 [~~(A) "short life property";]~~

52 [~~(B) "short life trade fixtures"; and]~~

53 [~~(C) "computer hardware."]~~

54 (c) "Noncapitalized personal property" means an item of tangible personal property
55 that:

56 (i) has an acquisition cost of \$1,000 or less; and

57 (ii) is claimed as allowed on a federal individual income tax return as a deductible
58 expense under Section 162 or Section 179, Internal Revenue Code, in the year of acquisition.

59 ~~[(e)]~~ (d) "Taxable tangible personal property" means tangible personal property that is
60 subject to taxation under this chapter.

61 (2) (a) A person may ~~[elect to designate taxable tangible personal property as~~
62 ~~expensed]~~ make an election for the noncapitalized personal property owned by the person to be
63 assessed and taxed as provided in this section.

64 (b) ~~[A]~~ Except as provided in Subsection (2)(c), a county [shall] may not require a
65 person who makes an election under this section to:

66 (i) itemize ~~[expensed]~~ noncapitalized personal property on the signed statement
67 described in Section 59-2-306; ~~[and]~~ or

68 (ii) track ~~[expensed]~~ noncapitalized personal property.

69 (c) If a ~~[taxpayer's expensed]~~ person's noncapitalized personal property for which the
70 person makes an election under this section is audited in accordance with Subsection
71 59-2-306(3), ~~[a taxpayer]~~ the person shall provide proof of the acquisition cost of the
72 ~~[expensed]~~ noncapitalized personal property.

73 (3) (a) An election ~~[to designate taxable tangible personal property as expensed~~
74 ~~personal property]~~ under this section may not be revoked.

75 (b) Except as provided in Subsection (3)(d), if ~~[an item of taxable tangible personal~~
76 ~~property is designated as expensed personal property]~~ a person makes an election under this
77 section with respect to noncapitalized personal property, the person ~~[must]~~ shall pay taxes on
78 the noncapitalized personal property according to the ~~[taxable value determined by the~~
79 ~~schedule for a term designated by a]~~ schedule described in Subsection (4).

80 (c) If a person sells or otherwise disposes of an item of ~~[expensed]~~ noncapitalized
81 personal property for which the person makes an election under this section prior to the ~~[time~~
82 ~~period described in Subsection (3)(b) or (d)]~~ fourth year after acquisition, the person shall
83 continue to pay taxes according to the schedule described in Subsection (4).

84 (d) If a person ~~[elects to designate an item of taxable tangible]~~ makes an election under
85 this section for noncapitalized personal property acquired on or before December 31, [2008]
86 2012, [as expensed personal property] at a time after the first year after ~~[the item is acquired]~~
87 acquisition, the person ~~[must]~~ shall pay taxes according to the taxable value for the applicable

88 one or more years after acquisition as determined by the schedule [for a time period that
 89 equals:] described in Subsection (4).

90 ~~[(i) the time period designated in Subsection (3)(b); less]~~

91 ~~[(ii) the time period beginning when the person acquired the item of expensed personal~~
 92 ~~property and ending when the person designated the item as short life expensed personal~~
 93 ~~property.]~~

94 (e) If a person ~~[elects to designate taxable tangible personal property as expensed~~
 95 ~~personal property in accordance with Subsection (2)(a)] makes an election under this section,~~
 96 the person may not appeal the values described in Subsection (4).

97 (4) ~~[(a) For the taxable year beginning on January 1, 2009 and ending on December 31,~~
 98 ~~2009, the] The taxable value of [short life expensed] noncapitalized personal property for~~
 99 ~~which a person makes an election under this section is calculated by applying the percent good~~
 100 ~~factor against the acquisition cost of the noncapitalized personal property as follows:~~

101 ~~[Short Life Expensed] Noncapitalized Personal Property Schedule~~

102	Year [of] <u>after</u> Acquisition	Percent Good of Acquisition Cost
103	[2008]	[69%]
104	<u>First year after acquisition</u>	<u>75%</u>
105	[2007] <u>Second year after acquisition</u>	[52%] <u>50%</u>
106	[2006] <u>Third year after acquisition</u>	[30%] <u>25%</u>
107	[2005] <u>Fourth year after acquisition</u>	[17%] <u>0%</u>
108	[2004]	[11%]

109 ~~[(b) For taxable years beginning on or after January 1, 2010, the taxable value of short~~
 110 ~~life expensed personal property shall be assessed according to a schedule developed by the~~
 111 ~~commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

112 Section 2. Section **59-2-1115** is amended to read:

113 **59-2-1115. Exemption of certain tangible personal property.**

114 (1) For purposes of this section:

115 (a) (i) "Acquisition cost" means all costs required to put an item of tangible personal
 116 property into service; and

117 (ii) includes:

- 118 (A) the purchase price for a new or used item;
- 119 (B) the cost of freight and shipping;
- 120 (C) the cost of installation, engineering, erection, or assembly; and
- 121 (D) sales and use taxes.

122 (b) (i) "Item of taxable tangible personal property" does not include an improvement to
 123 real property or a part that will become an improvement.

124 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 125 commission may make rules defining the term "item of taxable tangible personal property."

126 (c) (i) "Taxable tangible personal property" means tangible personal property that is
 127 subject to taxation under this chapter.

128 (ii) "Taxable tangible personal property" does not include:

129 (A) tangible personal property required by law to be registered with the state before it
 130 is used:

- 131 (I) on a public highway;
- 132 (II) on a public waterway;
- 133 (III) on public land; or
- 134 (IV) in the air;

135 (B) a mobile home as defined in Section 41-1a-102; or

136 (C) a manufactured home as defined in Section 41-1a-102.

137 (2) (a) The taxable tangible personal property of a taxpayer is exempt from taxation if
 138 the taxable tangible personal property has a total aggregate fair market value per county of
 139 \$3,500 or less.

140 (b) An item of taxable tangible personal property, except for an item of noncapitalized
 141 personal property as defined in Section 59-2-108, is exempt from taxation if the item of taxable
 142 tangible personal property:

- 143 (i) has an acquisition cost of \$1,000 or less;
- 144 (ii) has reached a percent good of 15% or less according to a personal property
 145 schedule[~~-(A)~~] published by the commission pursuant to Section 59-2-107; [~~or~~] and
 146 [~~(B)~~] for an item of personal property that is designated as expensed personal property
 147 in accordance with Section 59-2-108, described in Section 59-2-108; and]

148 (iii) is in a personal property schedule with a residual value of 15% or less.

149 (3) (a) For calendar years beginning on or after January 1, 2008, the commission shall
150 increase the dollar amount described in Subsection (2)(a):

151 (i) by a percentage equal to the percentage difference between the consumer price
152 index for the preceding calendar year and the consumer price index for calendar year 2006; and

153 (ii) up to the nearest \$100 increment.

154 (b) For purposes of this Subsection(3), the commission shall calculate the consumer
155 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

156 (c) If the percentage difference under Subsection(3)(a)(i) is zero or a negative
157 percentage, the consumer price index increase for the year is zero.

158 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
159 commission may make rules to administer this section and provide for uniform
160 implementation.

161 Section 3. **Effective date.**

162 This bill takes effect on January 1, 2013.