

**Effective 1/1/2024**

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

(1) As used in this section:

(a) "Charitable purposes" means:

- (i) for property used as a nonprofit hospital or a nursing home, the standards outlined in *Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc.*, 881 P.2d 880 (Utah 1994); and
- (ii) for property other than property described in Subsection (1)(a)(i), providing a gift to the community.

(b) "Compliance period" means a period equal to 15 taxable years beginning with the first taxable year for which the taxpayer claims a tax credit under Section 42, Internal Revenue Code, or Section 59-7-607 or 59-10-1010.

(c)

(i) "Educational purposes" means purposes carried on by an educational organization that normally:

- (A) maintains a regular faculty and curriculum; and
- (B) has a regularly enrolled body of pupils and students.

(ii) "Educational purposes" includes:

- (A) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and
- (B) an activity in support of or incidental to the teaching, training, or conditioning described in this Subsection (1)(c)(ii).

(d) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more of the following purposes:

- (i) religious purposes;
- (ii) charitable purposes; or
- (iii) educational purposes.

(e)

(i) "Farm machinery and equipment" means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

(ii) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(f) "Gift to the community" means:

(i) the lessening of a government burden; or

(ii)

- (A) the provision of a significant service to others without immediate expectation of material reward;
- (B) the use of the property is supported to a material degree by donations and gifts including volunteer service;
- (C) the recipients of the charitable activities provided on the property are not required to pay for the assistance received, in whole or in part, except that if in part, to a material degree;

- (D) the beneficiaries of the charitable activities provided on the property are unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable objectives of the nonprofit entity that owns the property; and
- (E) any commercial activities provided on the property are subordinate or incidental to charitable activities provided on the property.
- (g) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).
- (h)
  - (i) "Nonprofit entity" means an entity:
    - (A) that is organized on a nonprofit basis, that dedicates the entity's property to the entity's nonprofit purpose, and that makes no dividend or other form of financial benefit available to a private interest;
    - (B) for which, upon dissolution, the entity's assets are distributable only for exempt purposes under state law or to the government for a public purpose; and
    - (C) for which none of the net earnings or donations made to the entity inure to the benefit of private shareholders or other individuals, as the private inurement standard has been interpreted under Section 501(c)(3), Internal Revenue Code.
  - (ii) "Nonprofit entity" includes an entity:
    - (A) if the entity is treated as a disregarded entity for federal income tax purposes and wholly owned by, and controlled under the direction of, a nonprofit entity; and
    - (B) for which none of the net earnings and profits of the entity inure to the benefit of any person other than a nonprofit entity.
  - (iii) "Nonprofit entity" includes an entity that is not an entity described in Subsection (1)(h)(i) if the entity jointly owns a property that:
    - (A) is used for the purpose of providing permanent supportive housing;
    - (B) has an owner that is an entity described in Subsection (1)(h)(i) or that is a housing authority that operates the permanent supportive housing;
    - (C) has an owner that receives public funding from a federal, state, or local government entity to provide support services and rental subsidies to the permanent supportive housing;
    - (D) is intended to be transferred at or before the end of the compliance period to an entity described in Subsection (1)(h)(i) or a housing authority that will continue to operate the property as permanent supportive housing; and
    - (E) has been certified by the Utah Housing Corporation as meeting the requirements described in Subsections (1)(h)(iii)(A) through (D).
- (i) "Permanent supportive housing" means a housing facility that:
  - (i) provides supportive services;
  - (ii) makes a 15-year commitment to provide rent subsidies to tenants of the housing facility when the housing facility is placed in service;
  - (iii) receives an allocation of federal low-income housing tax credits in accordance with 26 U.S.C. Sec. 42; and
  - (iv) leases each unit to a tenant:
    - (A) who, immediately before leasing the housing, was homeless as defined in 24 C.F.R. 583.5; and
    - (B) whose rent is capped at no more than 30% of the tenant's household income.
- (j)
  - (i) "Property of" means property that an entity listed in Subsection (3)(a)(ii) or (iii) has a legal right to possess.
  - (ii) "Property of" includes a lease of real property if:

- (A) the property is wholly leased to a state or political subdivision entity listed in Subsection (3)(a)(ii) or (iii) under a triple net lease; and
  - (B) the lease is in effect for the entire calendar year.
  - (k) "Supportive service" means a service that is an eligible cost under 24 C.F.R. 578.53.
  - (l) "Triple net lease" means a lease agreement under which the lessee is responsible for the real estate taxes, building insurance, and maintenance of the property separate from and in addition to the rental price.
- (2)
- (a) Except as provided in Subsection (2)(b), an exemption under this part 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) A claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:
    - (i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or
    - (ii) pursuant to Subsection (3)(a)(iv):
      - (A) the claimant is a nonprofit entity; and
      - (B) the property is used exclusively for religious, charitable, or educational purposes.
- (3)
- (a) The following property is exempt from taxation:
    - (i) property exempt under the laws of the United States;
    - (ii) property of:
      - (A) the state;
      - (B) school districts; and
      - (C) public libraries;
    - (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:
      - (A) counties;
      - (B) cities;
      - (C) towns;
      - (D) special districts;
      - (E) special service districts; and
      - (F) all other political subdivisions of the state;
    - (iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity used exclusively for one or more of the following purposes:
      - (A) religious purposes;
      - (B) charitable purposes; or
      - (C) educational purposes;
    - (v) places of burial not held or used for private or corporate benefit;
    - (vi) farm machinery and equipment;
    - (vii) a high tunnel, as defined in Section 10-9a-525;
    - (viii) intangible property; and
    - (ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:
      - (A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and
      - (B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.
  - (b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

- (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.
- (6)
  - (a) A property may not receive an exemption under Subsection (3)(a)(iv) if:
    - (i) the nonprofit entity that owns the property participates in or intervenes in any political campaign on behalf of or in opposition to any candidate for public office, including the publishing or distribution of statements; or
    - (ii) a substantial part of the activities of the nonprofit entity that owns the property consists of carrying on propaganda or otherwise attempting to influence legislation, except as provided under Subsection 501(h), Internal Revenue Code.
  - (b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a) shall be determined using the standards described in Section 501, Internal Revenue Code.
- (7) A property may not receive an exemption under Subsection (3)(a)(iv) if:
  - (a) the property is used for a purpose that is not religious, charitable, or educational; and
  - (b) the use for a purpose that is not religious, charitable, or educational is more than de minimis.
- (8) A county legislative body may adopt rules or ordinances to:
  - (a) effectuate an exemption under this part; and
  - (b) designate one or more persons to perform the functions given to the county under this part.
- (9) If a person is dissatisfied with an exemption decision made under designated decision-making authority as described in Subsection (8)(b), that person may appeal the decision to the commission under Section 59-2-1006.

Amended by Chapter 254, 2024 General Session