

## Chapter 4 Privilege Tax

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

- (1)
  - (a) Except as provided in Subsections (1)(b), (1)(c), and (3), a tax is imposed on the possession or other beneficial use enjoyed by any person of any real or personal property that is exempt for any reason from taxation, if that property is used in connection with a business conducted for profit.
  - (b) Any interest remaining in the state in state lands after subtracting amounts paid or due in part payment of the purchase price as provided in Subsection 59-2-1103(2)(b)(i) under a contract of sale is subject to taxation under this chapter regardless of whether the property is used in connection with a business conducted for profit.
  - (c) The tax imposed under Subsection (1)(a) does not apply to property exempt from taxation under Section 59-2-1114.
- (2)
  - (a) The tax imposed under this chapter is the same amount that the ad valorem property tax would be if the possessor or user were the owner of the property.
  - (b) The amount of any payments that are made in lieu of taxes is credited against the tax imposed on the beneficial use of property owned by the federal government.
- (3) A tax is not imposed under this chapter on the following:
  - (a) the use of property that is a concession in, or relative to, the use of a public airport, park, fairground, or similar property that is available as a matter of right to the use of the general public;
  - (b) the use or possession of property by a religious, educational, or charitable organization;
  - (c) the use or possession of property if the revenue generated by the possessor or user of the property through its possession or use of the property inures only to the benefit of a religious, educational, or charitable organization and not to the benefit of any other person;
  - (d) the possession or other beneficial use of public land occupied under the terms of an agricultural lease or permit issued by the United States or this state;
  - (e) the use or possession of any lease, permit, or easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit, or easement relates;
  - (f) the use or possession of property by a public agency, as defined in Section 11-13-103, to the extent that the ownership interest of the public agency in that property is subject to a fee in lieu of ad valorem property tax under Section 11-13-302; or
  - (g) the possession or beneficial use of public property as a tollway by a private entity through a tollway development agreement as defined in Section 72-6-202.
- (4) For purposes of Subsection (3)(e):
  - (a) every lessee, permittee, or other holder of a right to remove or extract the mineral covered by the holder's lease, right permit, or easement, except from brines of the Great Salt Lake, is considered to be in possession of the premises, regardless of whether another party has a similar right to remove or extract another mineral from the same property; and
  - (b) a lessee, permittee, or holder of an easement still has exclusive possession of the premises if the owner has the right to enter the premises, approve leasehold improvements, or inspect the premises.

- (5) A tax imposed under this chapter is assessed to the possessors or users of the property on the same forms, and collected and distributed at the same time and in the same manner, as taxes assessed owners, possessors, or other claimants of property that is subject to ad valorem property taxation. The tax is not a lien against the property, and no tax-exempt property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.
- (6) Sections 59-2-301.1 through 59-2-301.7 apply for purposes of assessing a tax under this chapter.

Amended by Chapter 366, 2016 General Session

**59-4-102 Failure to pay tax -- Remedies of county.**

A tax due and unpaid under this chapter constitutes a debt due the county for and on behalf of the various taxing units concerned with the tax. If the tax imposed by this chapter or any portion of the tax is not paid at the time the tax becomes delinquent, the county auditor shall issue a warrant in the name of the county directed to the clerk of the district court for that county. The clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the delinquent taxpayer mentioned in the warrant and, in the appropriate columns, the amount of tax, penalties, interest, and other costs for which the warrant is issued and the date when the warrant is filed. The warrant so docketed has the force and effect of a judgment duly rendered by a district court and docketed in the office of the clerk, and the county has the same remedies against the possessor or user as any other judgment creditor.

Amended by Chapter 143, 1997 General Session