

1 **FARMLAND ASSESSMENT ACT - ROLLBACK**

2 **TAXES**

3 2002 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: David Ure**

6 **This act modifies the Farmland Assessment Act to provide a reduction in the rollback tax**
7 **in certain circumstances involving the transfer of land upon which a primary residence will**
8 **be located if the transfer of land is made to an immediate descendant of the owner. The act**
9 **makes technical changes. This act takes effect on January 1, 2003.**

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

11 AMENDS:

12 **59-2-502**, as last amended by Chapter 241, Laws of Utah 2001

13 **59-2-506**, as last amended by Chapter 236, Laws of Utah 1995

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

15 Section 1. Section **59-2-502** is amended to read:

16 **59-2-502. Definitions.**

17 As used in this part:

18 (1) (a) "Immediate descendant" means a lineal descendant that is in the generation
19 immediately following the generation of the owner of land assessed under this part.

20 (b) "Immediate descendant" includes:

21 (i) a son or daughter;

22 (ii) a stepson or stepdaughter;

23 (iii) a nephew or niece;

24 (iv) a step-nephew or step-niece; or

25 (v) a spouse of a person described in Subsections (1)(b)(i) through (iv).

26 ~~[(+)]~~ (2) "Land in agricultural use" means:

27 (a) land devoted to the raising of useful plants and animals with a reasonable expectation



of profit, including:

- (i) forages and sod crops;
- (ii) grains and feed crops;
- (iii) livestock as defined in Section 59-2-102;
- (iv) trees and fruits; or
- (v) vegetables, nursery, floral, and ornamental stock; or
- (b) land devoted to and meeting the requirements and qualifications for payments or other

compensation under a crop-land retirement program with an agency of the state or federal government.

~~[(2)]~~ (3) "Platted" means land in which:

- (a) parcels of ground are laid out and mapped by their boundaries, course, and extent; and
- (b) the plat has been approved as provided in Section 10-9-805 or 17-27-805.

(4) (a) "Primary residence" means property used:

(i) for residential purposes; and

(ii) as a domicile, as defined by rule made by the commission in accordance with Title 63,

Chapter 46a, Utah Administrative Rulemaking Act.

(b) "Primary residence" does not include:

(i) property used as a transient residence; or

(ii) a condominium used in a rental pool.

~~[(3)]~~ (5) "Rollback" means the period preceding the withdrawal of the land from the provisions of this part or the change in use of the land, not to exceed five years, during which the land is valued, assessed, and taxed under this part.

Section 2. Section **59-2-506** is amended to read:

59-2-506. Rollback tax -- Exception for conservation easements -- Penalty -- Recordation -- Lien -- Computation of tax -- Procedure -- Collection -- Distribution.

(1) (a) If land which is or has been in agricultural use, and is or has been valued, assessed, and taxed under this part, is applied to a use other than agricultural or is otherwise withdrawn from the provisions of this part, it is subject to an additional tax referred to as the "rollback tax," and the owner shall within 180 days after the change in land use notify the county assessor of the change in land use and pay the rollback tax.

(b) (i) Notwithstanding Subsection (1)(a), the rollback tax does not apply if:

(A) land was assessed in the previous year based on the value which it had for agricultural use and is converted into a conservation easement, as defined in Title 57, Chapter 18, Land Conservation Easement Act; and

(B) the conversion of the land is considered a qualified conservation contribution for federal purposes under Section 170(h), Internal Revenue Code.

(ii) In order to qualify for the exemption from the rollback tax provided for in (1)(b)(i), the owner of the land shall:

(A) convert the land into a conservation easement in accordance with the requirements of Title 57, Chapter 18, Land Conservation Easement Act; and

(B) within 30 days after the land has been converted into a conservation easement, notify the county assessor of the change. During the period that land is valued under a conservation easement, the county assessor shall carry on the county tax roll the value of the land as valued under the conservation easement and the fair market value of the land.

(iii) (A) Except as provided in Subsection (1)(c), if a conservation easement is terminated in accordance with Section 57-18-5, the owner of the land shall, within 30 days after the conservation easement is terminated, notify the county assessor of the termination and pay the rollback tax as provided for in this part.

(B) Property subject to the rollback tax under Subsection (1)(b)(iii) shall be subject to the penalties, procedures, and requirements of this section.

(c) (i) An owner is not subject to the rollback tax under Subsection (1)(b)(iii) if:

(A) a conservation easement is terminated under Subsection (1)(b)(iii);

(B) the owner applies for valuation of the land as land in agricultural use under Subsection 59-2-508(1) within 30 days from the day on which the conservation easement is terminated under Subsection (1)(b)(iii); and

(C) the application for valuation as land in agricultural use is approved within two years from the day on which the application was filed.

(ii) If the land does not receive approval for valuation as land in agricultural use within two years from the day on which the application was filed, the owner of the land shall, within 30 days from the day on which the two year period expired, notify the county assessor of the termination of the conservation easement and pay the rollback tax as provided in Subsections (1)(b)(iii)(A) and (B).

(2) Failure of the owner to notify the county assessor of a change in land use within 180 days, and failure to pay rollback taxes imposed by this section after notification by the assessor that rollback taxes are due, subjects the owner to a penalty of 100% of the rollback tax due.

(3) Upon receipt of the notice, the county assessor shall have the following statement recorded by the county recorder: "On (date) this land became subject to the rollback tax imposed by Section 59-2-506."

(4) The rollback tax is a lien upon the land until paid and is due and payable at the time of the change in use.

(5) ~~[The]~~ (a) Except as provided in Subsection (9), the county assessor shall determine the amount of the rollback tax by computing the difference between:

(i) the tax paid while the land was [valued] assessed under this part; and [that which]

(ii) the tax that would have been paid had the [property] land not been [valued] assessed under this part.

(b) The county treasurer shall;

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied.

(6) (a) The assessment of the rollback tax imposed by Subsection (1), the attachment of the lien for these taxes, and the right of the owner or other interested party to review any judgment of the county board of equalization affecting the rollback tax shall be governed by the procedures provided for the assessment and taxation of real property not valued, assessed, or taxed under this part.

(b) The rollback tax collected shall be paid into the county treasury and paid by the treasurer to the various taxing units pro rata in accordance with the levies for the current year.

(7) Land that becomes ineligible for farmland assessment solely as a result of amendments to this part is not subject to the rollback tax. Any other change in land use or withdrawal of land from the provisions of this part, whether voluntary or involuntary, subjects the land to the rollback tax.

(8) Land which becomes exempt from taxation under Utah Constitution Article XIII, Section 2, is not considered withdrawn from this part if the land continues to be used for agricultural purposes.

121 (9) (a) (i) Subject to Subsection (9)(a)(ii), for purposes of this Subsection (9), familial
122 residential land is an interest in land equal to the lesser of:

123 (A) one acre; or

124 (B) the interest in land that meets the requirements of Subsection (9)(c).

125 (ii) Subject to Subsection (9)(f), familial residential land may meet the requirements of
126 Subsection (9)(c) regardless of whether a change of ownership occurs as part of a transaction
127 involving an interest in land in addition to the familial residential land.

128 (b) Notwithstanding Subsection (5), for familial residential land that meets the
129 requirements of Subsection (9)(c), the county assessor shall determine the amount of the rollback
130 tax for that familial residential land by:

131 (i) computing the difference between:

132 (A) the tax paid on that familial residential land while the land was assessed under this
133 part; and

134 (B) the tax that would have been paid had that familial residential land not been assessed
135 under this part; and

136 (ii) multiplying the amount computed under Subsection (9)(b)(i) by .55.

137 (c) Subsection (9)(b) applies to familial residential land that after being assessed under this
138 part has a change of ownership, if:

139 (i) the change of ownership involves the transfer of familial residential land from an owner
140 of the land to an immediate descendant of the owner of the land;

141 (ii) after the change of ownership, the familial residential land is not eligible for
142 assessment under this part;

143 (iii) the primary residence that is to be located on the familial residential land is occupied:

144 (A) within one year after the day on which the ownership of the land changes; and

145 (B) by the immediate descendent described in Subsection (9)(c)(i); and

146 (iv) for at least one year after the change of ownership, the owner of the familial
147 residential land will be the immediate descendant described in Subsection (9)(c)(i).

148 (d) To qualify for the reduction in the rollback tax under this Subsection (9), after the
149 change of ownership described in Subsection (9)(c) an owner of familial residential land shall:

150 (i) notify the county assessor within 120 days after a change in ownership described in
151 Subsection (9)(c) that the familial residential land is eligible for the reduction in the rollback tax

under this Subsection (9); and

(ii) provide the county assessor with a statement that:

(A) certifies that the conditions of Subsection (9)(c) are met for the familial residential land; and

(B) is signed by all owners of the familial residential land after the change of ownership described in Subsection (9)(c).

(e) (i) If after an owner of familial residential land provides to the county assessor the notification and statement required by Subsection (9)(d) a requirement of Subsection (9)(c) is not met, an owner of the familial residential land shall:

(A) notify the county assessor that a requirement of Subsection (9)(c) is not met; and

(B) pay the difference in the rollback tax between:

(I) the amount determined under Subsection (5); and

(II) the amount determined under this Subsection (9).

(ii) An owner of the familial residential land shall provide the notice and pay the rollback tax required under this Subsection (9)(e) within 30 days after a requirement of Subsection (9)(c) is not met.

(f) If the change of ownership described in Subsection (9)(c) involves land in addition to familial residential land:

(i) only the familial residential land that meets the requirements of Subsection (9)(c) is eligible for the reduction in the rollback tax under this Subsection (9); and

(ii) any interest in land in addition to the familial residential land that is part of the transaction described in Subsection (9)(a)(ii) may not qualify for a reduction in the rollback tax under this Subsection (9) for five years after the day on which the transaction described in Subsection (9)(a)(ii) is executed.

Section 3. Effective date.

This act takes effect on January 1, 2003.

Legislative Review Note

as of 2-6-02 1:34 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel