

**PROPERTY TAX - OUTDOOR ADVERTISING**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Michael G. Waddoups**

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**LONG TITLE**

**General Description:**

This bill modifies the Property Tax Act to clarify the definition of personal property.

**Highlighted Provisions:**

This bill:

- ▶ amends the definition of personal property to clarify that outdoor advertising structures are personal property; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides for retrospective operation.

**Utah Code Sections Affected:**

AMENDS:

**59-2-102**, as last amended by Chapter 113, Laws of Utah 2003

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

Section 1. Section **59-2-102** is amended to read:

**59-2-102. Definitions.**

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an



28 airworthiness certificate from the Federal Aviation Administration certifying the aircraft or  
29 rotorcraft's use for agricultural and pest control purposes.

30 (2) "Air charter service" means an air carrier operation which requires the customer to  
31 hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled  
32 trip.

33 (3) "Air contract service" means an air carrier operation available only to customers  
34 who engage the services of the carrier through a contractual agreement and excess capacity on  
35 any trip and is not available to the public at large.

36 (4) "Aircraft" is as defined in Section 72-10-102.

37 (5) "Airline" means any air carrier operating interstate routes on a scheduled basis  
38 which offers to fly passengers or cargo on the basis of available capacity on regularly scheduled  
39 routes.

40 (6) "Assessment roll" means a permanent record of the assessment of property as  
41 assessed by the county assessor and the commission and may be maintained manually or as a  
42 computerized file as a consolidated record or as multiple records by type, classification, or  
43 categories.

44 (7) "Certified revenue levy" means a property tax levy that provides the same amount  
45 of ad valorem property tax revenue as was collected for the prior year, plus new growth, but  
46 exclusive of revenue from collections from redemptions, interest, and penalties.

47 (8) "County-assessed commercial vehicle" means:

48 (a) any commercial vehicle, trailer, or semitrailer which is not apportioned under  
49 Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or  
50 property in furtherance of the owner's commercial enterprise;

51 (b) any passenger vehicle owned by a business and used by its employees for  
52 transportation as a company car or vanpool vehicle; and

53 (c) vehicles which are:

54 (i) especially constructed for towing or wrecking, and which are not otherwise used to  
55 transport goods, merchandise, or people for compensation;

56 (ii) used or licensed as taxicabs or limousines;

57 (iii) used as rental passenger cars, travel trailers, or motor homes;

58 (iv) used or licensed in this state for use as ambulances or hearses;

- 59 (v) especially designed and used for garbage and rubbish collection; or
- 60 (vi) used exclusively to transport students or their instructors to or from any private,
- 61 public, or religious school or school activities.

62 (9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801,  
63 "designated tax area" means a tax area created by the overlapping boundaries of only the  
64 following taxing entities:

- 65 (i) a county; and
- 66 (ii) a school district.

67 (b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created  
68 by the overlapping boundaries of:

- 69 (i) the taxing entities described in Subsection (9)(a); and
- 70 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a)  
71 and the boundaries of the city or town are identical; or
- 72 (B) a special service district if the boundaries of the school district under Subsection  
73 (9)(a) are located entirely within the special service district.

74 (10) "Eligible judgment" means a final and unappealable judgment or order under  
75 Section 59-2-1330:

76 (a) that became a final and unappealable judgment or order no more than 14 months  
77 prior to the day on which the notice required by Subsection 59-2-919(4) is required to be  
78 mailed; and

79 (b) for which a taxing entity's share of the final and unappealable judgment or order is  
80 greater than or equal to the lesser of:

- 81 (i) \$5,000; or
- 82 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the  
83 previous fiscal year.

84 (11) (a) "Escaped property" means any property, whether personal, land, or any  
85 improvements to the property, subject to taxation and is:

- 86 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed  
87 to the wrong taxpayer by the assessing authority;
- 88 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to  
89 comply with the reporting requirements of this chapter; or

90 (iii) undervalued because of errors made by the assessing authority based upon  
91 incomplete or erroneous information furnished by the taxpayer.

92 (b) Property which is undervalued because of the use of a different valuation  
93 methodology or because of a different application of the same valuation methodology is not  
94 "escaped property."

95 (12) "Fair market value" means the amount at which property would change hands  
96 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell  
97 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair  
98 market value" shall be determined using the current zoning laws applicable to the property in  
99 question, except in cases where there is a reasonable probability of a change in the zoning laws  
100 affecting that property in the tax year in question and the change would have an appreciable  
101 influence upon the value.

102 (13) "Farm machinery and equipment," for purposes of the exemption provided under  
103 Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed  
104 handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage  
105 tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery or  
106 equipment used primarily for agricultural purposes; but does not include vehicles required to be  
107 registered with the Motor Vehicle Division or vehicles or other equipment used for business  
108 purposes other than farming.

109 (14) "Geothermal fluid" means water in any form at temperatures greater than 120  
110 degrees centigrade naturally present in a geothermal system.

111 (15) "Geothermal resource" means:

112 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;  
113 and

114 (b) the energy, in whatever form, including pressure, present in, resulting from, created  
115 by, or which may be extracted from that natural heat, directly or through a material medium.

116 (16) "Improvements" includes all buildings, structures, fixtures, fences, and  
117 improvements erected upon or affixed to the land, whether the title has been acquired to the  
118 land or not.

119 (17) "Intangible property" means:

120 (a) property that is capable of private ownership separate from tangible property,

- 121 including:
- 122 (i) moneys;
- 123 (ii) credits;
- 124 (iii) bonds;
- 125 (iv) stocks;
- 126 (v) representative property;
- 127 (vi) franchises;
- 128 (vii) licenses;
- 129 (viii) trade names;
- 130 (ix) copyrights; and
- 131 (x) patents; or
- 132 (b) a low-income housing tax credit.
- 133 (18) "Low-income housing tax credit" means:
- 134 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
- 135 or
- 136 (b) a low-income housing tax credit under:
- 137 (i) Section 59-7-607; or
- 138 (ii) Section 59-10-129.
- 139 (19) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- 140 (20) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
- 141 valuable mineral.
- 142 (21) "Mining" means the process of producing, extracting, leaching, evaporating, or
- 143 otherwise removing a mineral from a mine.
- 144 (22) (a) "Mobile flight equipment" means tangible personal property that is:
- 145 (i) owned or operated by an:
- 146 (A) air charter service;
- 147 (B) air contract service; or
- 148 (C) airline; and
- 149 (ii) (A) capable of flight;
- 150 (B) attached to an aircraft that is capable of flight; or
- 151 (C) contained in an aircraft that is capable of flight if the tangible personal property is

152 intended to be used:

153 (I) during multiple flights;

154 (II) during a takeoff, flight, or landing; and

155 (III) as a service provided by an air charter service, air contract service, or airline.

156 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare  
157 engine that is rotated:

158 (A) at regular intervals; and

159 (B) with an engine that is attached to the aircraft.

160 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
161 the commission may make rules defining the term "regular intervals."

162 (23) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,  
163 sand, rock, gravel, and all carboniferous materials.

164 (24) "Personal property" includes:

165 (a) every class of property as defined in Subsection (25) which is the subject of  
166 ownership and not included within the meaning of the terms "real estate" and "improvements";

167 (b) gas and water mains and pipes laid in roads, streets, or alleys;

168 (c) bridges and ferries; [~~and~~]

169 (d) livestock which, for the purposes of the exemption provided under Section  
170 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish[-];  
171 and

172 (e) outdoor advertising structures as defined in Section 72-7-502.

173 (25) (a) "Property" means property that is subject to assessment and taxation according  
174 to its value.

175 (b) "Property" does not include intangible property as defined in this section.

176 (26) "Public utility," for purposes of this chapter, means the operating property of a  
177 railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline  
178 company, electrical corporation, telephone corporation, sewerage corporation, or heat  
179 corporation where the company performs the service for, or delivers the commodity to, the  
180 public generally or companies serving the public generally, or in the case of a gas corporation  
181 or an electrical corporation, where the gas or electricity is sold or furnished to any member or  
182 consumers within the state for domestic, commercial, or industrial use. Public utility also

183 means the operating property of any entity or person defined under Section 54-2-1 except water  
184 corporations.

185 (27) "Real estate" or "real property" includes:

186 (a) the possession of, claim to, ownership of, or right to the possession of land;

187 (b) all mines, minerals, and quarries in and under the land, all timber belonging to  
188 individuals or corporations growing or being on the lands of this state or the United States, and  
189 all rights and privileges appertaining to these; and

190 (c) improvements.

191 (28) "Residential property," for the purposes of the reductions and adjustments under  
192 this chapter, means any property used for residential purposes as a primary residence. It does  
193 not include property used for transient residential use or condominiums used in rental pools.

194 (29) For purposes of Subsection 59-2-801(1)(e), "route miles" means the number of  
195 miles calculated by the commission that is:

196 (a) measured in a straight line by the commission; and

197 (b) equal to the distance between a geographical location that begins or ends:

198 (i) at a boundary of the state; and

199 (ii) where an aircraft:

200 (A) takes off; or

201 (B) lands.

202 (30) (a) "State-assessed commercial vehicle" means:

203 (i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate  
204 to transport passengers, freight, merchandise, or other property for hire; or

205 (ii) any commercial vehicle, trailer, or semitrailer which operates interstate and  
206 transports the vehicle owner's goods or property in furtherance of the owner's commercial  
207 enterprise.

208 (b) "State-assessed commercial vehicle" does not include vehicles used for hire which  
209 are specified in Subsection (8)(c) as county-assessed commercial vehicles.

210 (31) "Taxable value" means fair market value less any applicable reduction allowed for  
211 residential property under Section 59-2-103.

212 (32) "Tax area" means a geographic area created by the overlapping boundaries of one  
213 or more taxing entities.

214           (33) "Taxing entity" means any county, city, town, school district, special taxing  
215 district, or any other political subdivision of the state with the authority to levy a tax on  
216 property.

217           (34) "Tax roll" means a permanent record of the taxes charged on property, as extended  
218 on the assessment roll and may be maintained on the same record or records as the assessment  
219 roll or may be maintained on a separate record properly indexed to the assessment roll. It  
220 includes tax books, tax lists, and other similar materials.

221           Section 2. **Retrospective operation.**

222           This bill has retrospective operation for the taxable year beginning on January 1, 2004.

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**Legislative Review Note**  
**as of 2-5-04 6:29 PM**

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

**Office of Legislative Research and General Counsel**



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**Fiscal Note**  
**Bill Number SB0177**

**Property Tax - Outdoor Advertising**

*11-Feb-04*

*8:51 AM*

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**State Impact**

No fiscal impact. Passage of this bill would codify existing practice.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**