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PROPERTY TAXATION OF AIRCRAFT

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark B. Madsen

House Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions in the Property Tax Act and the Uniform Aeronautical Regulatory Act related to the taxation and registration of certain charter aircraft.

Highlighted Provisions:

This bill:

- ▶ provides that, for purposes of property taxation of an air charter service, operating property does not include an aircraft that is used by the air charter service for air charter and is owned by a person other than the air charter service;
- ▶ reduces the registration fee for an aircraft used by an air charter service for air charter from .4% to .25% of the average wholesale value of the aircraft; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation for a taxable year beginning on or after January 1, 2009.

Utah Code Sections Affected:

AMENDS:

59-2-201, as last amended by Laws of Utah 2007, Chapters 119 and 306

72-10-110, as last amended by Laws of Utah 2008, Chapter 206



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

Section 1. Section **59-2-201** is amended to read:

59-2-201. Assessment by commission -- Determination of value of mining property -- Notification of assessment -- Local assessment of property assessed by the unitary method.

(1) (a) By May 1 of each year the following property, unless otherwise exempt under the Utah Constitution or under Part 11, Exemptions, Deferrals, and Abatements, shall be assessed by the commission at 100% of fair market value, as valued on January 1, in accordance with this chapter:

~~(a)~~ (i) except as provided in Subsection (2), all property which operates as a unit across county lines, if the values must be apportioned among more than one county or state;

~~(b)~~ (ii) all property of public utilities;

~~(c)~~ (iii) all operating property of an airline, air charter service, and air contract service;

~~(d)~~ (iv) all geothermal fluids and geothermal resources;

~~(e)~~ (v) all mines and mining claims except in cases, as determined by the commission, where the mining claims are used for other than mining purposes, in which case the value of mining claims used for other than mining purposes shall be assessed by the assessor of the county in which the mining claims are located; and

~~(f)~~ (vi) all machinery used in mining, all property or surface improvements upon or appurtenant to mines or mining claims. For the purposes of assessment and taxation, all processing plants, mills, reduction works, and smelters which are primarily used by the owner of a mine or mining claim for processing, reducing, or smelting minerals taken from a mine or mining claim shall be considered appurtenant to that mine or mining claim, regardless of actual location.

(b) For purposes of Subsection (1)(a)(iii), operating property of an air charter service does not include an aircraft that is:

(i) used by the air charter service for air charter; and

(ii) owned by a person other than the air charter service.

(2) The commission shall assess and collect property tax on state-assessed commercial

59 vehicles at the time of original registration or annual renewal.

60 (a) The commission shall assess and collect property tax annually on state-assessed
61 commercial vehicles which are registered pursuant to Section 41-1a-222 or 41-1a-228.

62 (b) State-assessed commercial vehicles brought into the state which are required to be
63 registered in Utah shall, as a condition of registration, be subject to ad valorem tax unless all
64 property taxes or fees imposed by the state of origin have been paid for the current calendar
65 year.

66 (c) Real property, improvements, equipment, fixtures, or other personal property in this
67 state owned by the company shall be assessed separately by the local county assessor.

68 (d) The commission shall adjust the value of state-assessed commercial vehicles as
69 necessary to comply with 49 U.S.C. Sec. 14502, and the commission shall direct the county
70 assessor to apply the same adjustment to any personal property, real property, or improvements
71 owned by the company and used directly and exclusively in their commercial vehicle activities.

72 (3) The method for determining the fair market value of productive mining property is
73 the capitalized net revenue method or any other valuation method the commission believes, or
74 the taxpayer demonstrates to the commission's satisfaction, to be reasonably determinative of
75 the fair market value of the mining property. The rate of capitalization applicable to mines
76 shall be determined by the commission, consistent with a fair rate of return expected by an
77 investor in light of that industry's current market, financial, and economic conditions. In no
78 event may the fair market value of the mining property be less than the fair market value of the
79 land, improvements, and tangible personal property upon or appurtenant to the mining
80 property.

81 (4) Immediately following the assessment, the owner or operator of the assessed
82 property shall be notified of the assessment by certified mail. The assessor of the county in
83 which the property is located shall also be immediately notified of the assessment by certified
84 mail.

85 (5) Property assessed by the unitary method, which is not necessary to the conduct and
86 does not contribute to the income of the business as determined by the commission, shall be
87 assessed separately by the local county assessor.

88 Section 2. Section **72-10-110** is amended to read:

89 **72-10-110. Aircraft registration information requirements -- Registration fee --**

90 **Administration -- Partial year registration.**

91 (1) All applications for aircraft registration shall contain:

92 (a) a description of the aircraft, including:

93 (i) the manufacturer or builder;

94 (ii) the aircraft registration number, type, year of manufacture, or if an experimental
95 aircraft, the year the aircraft was completed and certified for air worthiness by an inspector of
96 the Federal Aviation Administration; and

97 (iii) gross weight;

98 (b) the name and address of the owner of the aircraft; and

99 (c) where the aircraft is located, or the address where the aircraft is usually used or
100 based.101 (2) (a) Except as provided in Subsection (3), at the time application is made for
102 registration or renewal of registration of an aircraft under this chapter, an annual registration
103 fee of 0.4% of the average wholesale value of the aircraft shall be paid.104 (b) For purposes of calculating the value of the aircraft under Subsection (2)(a) or
105 (3)(d), the Tax Commission shall use the average wholesale value as stated in the Aircraft
106 Bluebook Price Digest.107 (3) (a) Notwithstanding Subsection (2)~~[(a)]~~, the following aircraft shall pay an annual
108 registration fee of \$100:

109 (i) an aircraft not listed in the Aircraft Bluebook Price Digest; or

110 (ii) an experimental aircraft.

111 (b) ~~[An]~~ Notwithstanding Subsection (2), an aircraft 50 years or older shall pay the
112 lesser of:

113 (i) \$100; or

114 (ii) the uniform fee provided for under Subsection (2)(a)~~[(a)]~~.115 (c) ~~[an]~~ Notwithstanding Subsection (2), an aircraft that does not have a valid
116 airworthiness certificate for a period of six months or more:

117 (i) may not apply for a certificate of registration required under Section 72-10-109; and

118 (ii) is exempt from paying a registration fee until the aircraft has a valid airworthiness
119 certificate.120 (d) Notwithstanding Subsection (2), an aircraft shall pay an annual registration fee of

121 .25% of the average wholesale value of the aircraft if:

122 (i) used by an air charter service for air charter; and

123 (ii) owned by a person other than the air charter service.

124 (4) (a) The Tax Commission shall provide a registration card to an owner of an aircraft

125 if:

126 (i) the owner complies with the registration requirements of this section; and

127 (ii) the owner of the aircraft states that the aircraft has a valid airworthiness certificate.

128 (b) An owner of an aircraft shall carry the registration card in the registered aircraft.

129 (5) The registration fees assessed under this chapter shall be collected by the Tax

130 Commission to be distributed as provided in Subsection (6).

131 (6) (a) After deducting the costs of administering all aircraft registrations under this

132 chapter, the Tax Commission shall deposit all remaining aircraft registration fees in the

133 Transportation Fund's Restricted Revenue Account for aeronautical operations of the

134 Department of Transportation to be used as provided in Subsection 59-13-402(2).

135 (b) All interest earned on monies in the Transportation Fund's Restricted Revenue

136 Account shall be deposited into the Transportation Fund's Restricted Revenue Account for

137 aeronautical operations.

138 (7) Aircraft which are registered under this chapter for less than a full calendar year

139 shall be charged a registration fee which is reduced in proportion to the fraction of the calendar

140 year during which the aircraft is registered in this state.

141 (8) (a) The Utah Division of Aeronautics shall maintain a statewide database of all

142 aircraft based within the state.

143 (b) On or before October 1 of each year, the Utah Division of Aeronautics shall

144 provide the Tax Commission with the data the Tax Commission requires from the database

145 described in Subsection (8)(a).

146 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

147 commission may by rule define the contents of the database described in Subsection (8)(a).

148 (9) The Tax Commission may suspend or revoke a registration if it determines that the

149 required fee has not been paid and the fee is not paid upon reasonable notice and demand.

150 **Section 3. Retrospective operation.**

151 This bill has retrospective operation for a taxable year beginning on or after January 1,

152 2009.

Legislative Review Note
as of **1-28-09 3:35 PM**

Office of Legislative Research and General Counsel

S.B. 157 - Property Taxation of Aircraft

Fiscal Note

2009 General Session

State of Utah

State Impact

The provisions of this bill change the way certain air charter service providers pay their taxes. Instead of paying property tax through central assessment, these companies will be paying a registration fee of 0.0025 of the average wholesale value of an aircraft that is owned by a person other than the air charter service provider. Because of the switch, enactment of this bill will increase revenue to the Transportation Fund Aeronautics Restricted Account by \$126,000.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
Transportation Fund Restricted	\$0	\$0	\$0	\$0	\$126,000	\$126,000
Total	\$0	\$0	\$0	\$0	\$126,000	\$126,000

Individual, Business and/or Local Impact

Enactment of this bill will shift \$10,300,00 in taxable value from companies that provide air charter service to other businesses and individuals. On a \$250,000 home, the average property tax increase would be \$0.03. On a \$1,000,000 business, the average property tax increase would be \$2.00. Local revenue could increase by \$375 through a \$25 per plane fee.