

PROPERTY TAX MODIFICATIONS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John G. Mathis

Senate Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to Farmland Assessment Act rollback tax provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
 - ▶ removes the Farmland Assessment Act rollback tax requirement under certain conditions related to a mineral rights owner exercising the right to extract minerals;
- and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation to January 1, 2013.

Utah Code Sections Affected:

AMENDS:

59-2-102, as last amended by Laws of Utah 2012, Chapter 240

59-2-506, as last amended by Laws of Utah 2003, Chapter 208

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

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



28 **59-2-102. Definitions.**

29 As used in this chapter and title:

30 (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of
31 engaging in dispensing activities directly affecting agriculture or horticulture with an
32 airworthiness certificate from the Federal Aviation Administration certifying the aircraft or
33 rotorcraft's use for agricultural and pest control purposes.

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

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

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

41 (5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

42 (i) operates:

43 (A) on an interstate route; and

44 (B) on a scheduled basis; and

45 (ii) offers to fly one or more passengers or cargo on the basis of available capacity on a
46 regularly scheduled route.

47 (b) "Airline" does not include an:

48 (i) air charter service; or

49 (ii) air contract service.

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

54 (7) (a) "Certified revenue levy" means a property tax levy that provides an amount of
55 ad valorem property tax revenue equal to the sum of:

56 (i) the amount of ad valorem property tax revenue to be generated statewide in the
57 previous year from imposing a school minimum basic tax rate, as specified in Subsection
58 53A-17a-135(1)(a), or multicounty assessing and collecting levy, as specified in Section

59 59-2-1602; and

60 (ii) the product of:

61 (A) new growth, as defined in:

62 (I) Section 59-2-924; and

63 (II) rules of the commission; and

64 (B) the school minimum basic tax rate or multicounty assessing and collecting levy
65 certified by the commission for the previous year.

66 (b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not
67 include property tax revenue received by a taxing entity from personal property that is:

68 (i) assessed by a county assessor in accordance with Part 3, County Assessment; and

69 (ii) semiconductor manufacturing equipment.

70 (c) For purposes of calculating the certified revenue levy described in this Subsection
71 (7), the commission shall use:

72 (i) the taxable value of real property assessed by a county assessor contained on the
73 assessment roll;

74 (ii) the taxable value of real and personal property assessed by the commission; and

75 (iii) the taxable year end value of personal property assessed by a county assessor
76 contained on the prior year's assessment roll.

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

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

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

83 (c) vehicles [~~which~~] that are:

84 (i) especially constructed for towing or wrecking, and [~~which~~] that are not otherwise
85 used to transport goods, merchandise, or people for compensation;

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

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

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

89 (v) especially designed and used for garbage and rubbish collection; or

90 (vi) used exclusively to transport students or their instructors to or from any private,
91 public, or religious school or school activities.

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

- 95 (i) a county; and
- 96 (ii) a school district.

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

- 99 (i) the taxing entities described in Subsection (9)(a); and
- 100 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a)
101 and the boundaries of the city or town are identical; or

102 (B) a special service district if the boundaries of the school district under Subsection
103 (9)(a) are located entirely within the special service district.

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

106 (a) that became a final and unappealable judgment or order no more than 14 months
107 prior to the day on which the notice required by Section 59-2-919.1 is required to be mailed;
108 and

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

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

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

116 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
117 to the wrong taxpayer by the assessing authority;

118 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
119 comply with the reporting requirements of this chapter; or

120 (iii) undervalued because of errors made by the assessing authority based upon

121 incomplete or erroneous information furnished by the taxpayer.

122 (b) Property [~~which~~] that is undervalued because of the use of a different valuation
123 methodology or because of a different application of the same valuation methodology is not
124 "escaped property."

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

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

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

141 (15) "Geothermal resource" means:

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

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

146 (16) (a) "Goodwill" means:

147 (i) acquired goodwill that is reported as goodwill on the books and records:

148 (A) of a taxpayer; and

149 (B) that are maintained for financial reporting purposes; or

150 (ii) the ability of a business to:

151 (A) generate income:

152 (I) that exceeds a normal rate of return on assets; and
153 (II) resulting from a factor described in Subsection (16)(b); or
154 (B) obtain an economic or competitive advantage resulting from a factor described in
155 Subsection (16)(b).

156 (b) The following factors apply to Subsection (16)(a)(ii):

157 (i) superior management skills;

158 (ii) reputation;

159 (iii) customer relationships;

160 (iv) patronage; or

161 (v) a factor similar to Subsections (16)(b)(i) through (iv).

162 (c) "Goodwill" does not include:

163 (i) the intangible property described in Subsection (20)(a) or (b);

164 (ii) locational attributes of real property, including:

165 (A) zoning;

166 (B) location;

167 (C) view;

168 (D) a geographic feature;

169 (E) an easement;

170 (F) a covenant;

171 (G) proximity to raw materials;

172 (H) the condition of surrounding property; or

173 (I) proximity to markets;

174 (iii) value attributable to the identification of an improvement to real property,

175 including:

176 (A) reputation of the designer, builder, or architect of the improvement;

177 (B) a name given to, or associated with, the improvement; or

178 (C) the historic significance of an improvement; or

179 (iv) the enhancement or assemblage value specifically attributable to the interrelation

180 of the existing tangible property in place working together as a unit.

181 (17) "Governing body" means:

182 (a) for a county, city, or town, the legislative body of the county, city, or town;

183 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
184 Local Districts, the local district's board of trustees;

185 (c) for a school district, the local board of education; or

186 (d) for a special service district under Title 17D, Chapter 1, Special Service District
187 Act:

188 (i) the legislative body of the county or municipality that created the special service
189 district, to the extent that the county or municipal legislative body has not delegated authority
190 to an administrative control board established under Section 17D-1-301; or

191 (ii) the administrative control board, to the extent that the county or municipal
192 legislative body has delegated authority to an administrative control board established under
193 Section 17D-1-301.

194 (18) (a) For purposes of Section 59-2-103:

195 (i) "household" means the association of persons who live in the same dwelling,
196 sharing its furnishings, facilities, accommodations, and expenses; and

197 (ii) "household" includes married individuals, who are not legally separated, that have
198 established domiciles at separate locations within the state.

199 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
200 commission may make rules defining the term "domicile."

201 (19) (a) Except as provided in Subsection (19)(c), "improvement" means a building,
202 structure, fixture, fence, or other item that is permanently attached to land, regardless of
203 whether the title has been acquired to the land, if:

204 (i) (A) attachment to land is essential to the operation or use of the item; and

205 (B) the manner of attachment to land suggests that the item will remain attached to the
206 land in the same place over the useful life of the item; or

207 (ii) removal of the item would:

208 (A) cause substantial damage to the item; or

209 (B) require substantial alteration or repair of a structure to which the item is attached.

210 (b) "Improvement" includes:

211 (i) an accessory to an item described in Subsection (19)(a) if the accessory is:

212 (A) essential to the operation of the item described in Subsection (19)(a); and

213 (B) installed solely to serve the operation of the item described in Subsection (19)(a);

214 and

215 (ii) an item described in Subsection (19)(a) that:

216 (A) is temporarily detached from the land for repairs; and

217 (B) remains located on the land.

218 (c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:

219 (i) an item considered to be personal property pursuant to rules made in accordance

220 with Section 59-2-107;

221 (ii) a moveable item that is attached to land:

222 (A) for stability only; or

223 (B) for an obvious temporary purpose;

224 (iii) (A) manufacturing equipment and machinery; or

225 (B) essential accessories to manufacturing equipment and machinery;

226 (iv) an item attached to the land in a manner that facilitates removal without substantial

227 damage to:

228 (A) the land; or

229 (B) the item; or

230 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that

231 transportable factory-built housing unit is considered to be personal property under Section

232 59-2-1503.

233 (20) "Intangible property" means:

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

235 including:

236 (i) money;

237 (ii) credits;

238 (iii) bonds;

239 (iv) stocks;

240 (v) representative property;

241 (vi) franchises;

242 (vii) licenses;

243 (viii) trade names;

244 (ix) copyrights; and

- 245 (x) patents;
- 246 (b) a low-income housing tax credit;
- 247 (c) goodwill; or
- 248 (d) a renewable energy tax credit or incentive, including:
 - 249 (i) a federal renewable energy production tax credit under Section 45, Internal Revenue
 - 250 Code;
 - 251 (ii) a federal energy credit for qualified renewable electricity production facilities under
 - 252 Section 48, Internal Revenue Code;
 - 253 (iii) a federal grant for a renewable energy property under American Recovery and
 - 254 Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
 - 255 (iv) a tax credit under Subsection 59-7-614(2)(c).
- 256 (21) "Low-income housing tax credit" means:
 - 257 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
 - 258 or
 - 259 (b) a low-income housing tax credit under:
 - 260 (i) Section 59-7-607; or
 - 261 (ii) Section 59-10-1010.
- 262 (22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- 263 (23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
- 264 valuable mineral.
- 265 (24) "Mining" means the process of producing, extracting, leaching, evaporating, or
- 266 otherwise removing a mineral from a mine.
- 267 (25) (a) "Mobile flight equipment" means tangible personal property that is:
 - 268 (i) owned or operated by an:
 - 269 (A) air charter service;
 - 270 (B) air contract service; or
 - 271 (C) airline; and
 - 272 (ii) (A) capable of flight;
 - 273 (B) attached to an aircraft that is capable of flight; or
 - 274 (C) contained in an aircraft that is capable of flight if the tangible personal property is
 - 275 intended to be used:

- 276 (I) during multiple flights;
- 277 (II) during a takeoff, flight, or landing; and
- 278 (III) as a service provided by an air charter service, air contract service, or airline.

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

- 281 (A) at regular intervals; and
- 282 (B) with an engine that is attached to the aircraft.

283 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
284 commission may make rules defining the term "regular intervals."

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

287 (27) "Personal property" includes:

288 (a) every class of property as defined in Subsection (28) [~~which~~] that is the subject of
289 ownership and not included within the meaning of the terms "real estate" and "improvements";

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

291 (c) bridges and ferries;

292 (d) livestock, which, for the purposes of the exemption provided under Section
293 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and

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

295 (28) (a) "Property" means property that is subject to assessment and taxation according
296 to its value.

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

298 (29) "Public utility," for purposes of this chapter, means the operating property of a
299 railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
300 company, electrical corporation, telephone corporation, sewerage corporation, or heat
301 corporation where the company performs the service for, or delivers the commodity to, the
302 public generally or companies serving the public generally, or in the case of a gas corporation
303 or an electrical corporation, where the gas or electricity is sold or furnished to any member or
304 consumers within the state for domestic, commercial, or industrial use. Public utility also
305 means the operating property of any entity or person defined under Section 54-2-1 except water
306 corporations.

307 (30) "Real estate" or "real property" includes:

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

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

312 (c) improvements.

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

316 (32) "Split estate mineral rights owner" means a person who:

317 (a) has a legal right to extract a mineral from property; and

318 (b) is not the owner of the property's land surface rights.

319 [~~32~~] (33) (a) "State-assessed commercial vehicle" means:

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

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

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

327 [~~33~~] (34) "Taxable value" means fair market value less any applicable reduction
328 allowed for residential property under Section 59-2-103.

329 [~~34~~] (35) "Tax area" means a geographic area created by the overlapping boundaries
330 of one or more taxing entities.

331 [~~35~~] (36) "Taxing entity" means any county, city, town, school district, special taxing
332 district, local district under Title 17B, Limited Purpose Local Government Entities - Local
333 Districts, or other political subdivision of the state with the authority to levy a tax on property.

334 [~~36~~] (37) "Tax roll" means a permanent record of the taxes charged on property, as
335 extended on the assessment roll and may be maintained on the same record or records as the
336 assessment roll or may be maintained on a separate record properly indexed to the assessment
337 roll. It includes tax books, tax lists, and other similar materials.

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

339 **59-2-506. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien --**
340 **Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.**

341 (1) Except as provided in this section, Section 59-2-506.5, or Section 59-2-511, if land
342 is withdrawn from this part, the land is subject to a rollback tax imposed in accordance with
343 this section.

344 (2) (a) An owner shall notify the county assessor that land is withdrawn from this part
345 within 120 days after the day on which the land is withdrawn from this part.

346 (b) An owner that fails to notify the county assessor under Subsection (2)(a) that land is
347 withdrawn from this part is subject to a penalty equal to the greater of:

348 (i) \$10; or

349 (ii) 2% of the rollback tax due for the last year of the rollback period.

350 (3) (a) The county assessor shall determine the amount of the rollback tax by
351 computing the difference for the rollback period described in Subsection (3)(b) between:

352 (i) the tax paid while the land was assessed under this part; and

353 (ii) the tax that would have been paid had the property not been assessed under this
354 part.

355 (b) For purposes of this section, the rollback period is a time period that:

356 (i) begins on the later of:

357 (A) the date the land is first assessed under this part; or

358 (B) five years preceding the day on which the county assessor mails the notice required
359 by Subsection (5); and

360 (ii) ends the day on which the county assessor mails the notice required by Subsection
361 (5).

362 (4) (a) The county treasurer shall:

363 (i) collect the rollback tax; and

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

366 (A) preparing a document that certifies that the rollback tax lien on the property has
367 been satisfied; and

368 (B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder

369 for recordation.

370 (b) The rollback tax collected under this section shall:

371 (i) be paid into the county treasury; and

372 (ii) be paid by the county treasurer to the various taxing entities pro rata in accordance

373 with the property tax levies for the current year.

374 (5) (a) The county assessor shall mail to an owner of the land that is subject to a

375 rollback tax a notice that:

376 (i) the land is withdrawn from this part;

377 (ii) the land is subject to a rollback tax under this section; and

378 (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within

379 30 days after the day on which the county assessor mails the notice.

380 (b) (i) The rollback tax is due and payable on the day the county assessor mails the

381 notice required by Subsection (5)(a).

382 (ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that

383 is withdrawn from this part does not pay the rollback tax within 30 days after the day on which

384 the county assessor mails the notice required by Subsection (5)(a).

385 (6) (a) Subject to Subsection (6)(b), the following are a lien on the land assessed under
386 this part:

387 (i) the rollback tax; and

388 (ii) interest imposed in accordance with Subsection (7).

389 (b) The lien described in Subsection (6)(a) shall:

390 (i) arise upon the imposition of the rollback tax under this section;

391 (ii) end on the day on which the rollback tax and interest imposed in accordance with

392 Subsection (7) are paid in full; and

393 (iii) relate back to the first day of the rollback period described in Subsection (3)(b).

394 (7) (a) A delinquent rollback tax under this section shall accrue interest:

395 (i) from the date of delinquency until paid; and

396 (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1

397 of the year in which the delinquency occurs.

398 (b) A rollback tax that is delinquent on September 1 of any year shall be included on

399 the notice required by Section 59-2-1317, along with interest calculated on that delinquent

400 amount through November 30 of the year in which the notice under Section 59-2-1317 is
401 mailed.

402 (8) (a) Land that becomes ineligible for assessment under this part only as a result of an
403 amendment to this part is not subject to the rollback tax if the owner of the land notifies the
404 county assessor that the land is withdrawn from this part in accordance with Subsection (2).

405 (b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of
406 an event other than an amendment to this part, whether voluntary or involuntary, is subject to
407 the rollback tax.

408 (9) Except as provided in Section 59-2-511, land that becomes exempt from taxation
409 under Utah Constitution Article XIII, Section 3, is not subject to the rollback tax if the land
410 meets the requirements of Section 59-2-503 to be assessed under this part.

411 (10) Land that becomes ineligible for assessment under this part only as a result of a
412 split estate mineral rights owner exercising the right to extract a mineral is not subject to the
413 rollback tax:

414 (a) (i) for the portion of the land required by a split estate mineral rights owner to
415 extract a mineral if, after the split estate mineral rights owner exercises the right to extract a
416 mineral, the property still meets the acreage requirements of Section 59-2-503 for assessment
417 under this part; or

418 (ii) for the entire acreage that would otherwise qualify for assessment under this part if,
419 after the split estate mineral rights owner exercises the right to extract a mineral, the property
420 no longer meets the acreage requirements of Section 59-2-503 for assessment under this part
421 only due to the extraction of the mineral by the split estate mineral rights owner; and

422 (b) for the period of time that the property described in Subsection (10)(a) is ineligible
423 for assessment under this part due to the extraction of a mineral by the split estate mineral
424 rights owner.

425 ~~[(10)]~~ (11) (a) Subject to Subsection ~~[(10)]~~ (11)(b), an owner of land may appeal to the
426 county board of equalization:

427 (i) a decision by a county assessor to withdraw land from assessment under this part; or
428 (ii) the imposition of a rollback tax under this section.

429 (b) An owner shall file an appeal under Subsection ~~[(10)]~~ (11)(a) no later than 45 days
430 after the day on which the county assessor mails the notice required by Subsection (5).

431 Section 3. **Retrospective operation.**

432 This bill has retrospective operation to January 1, 2013.

Legislative Review Note
as of 1-9-13 2:43 PM

Office of Legislative Research and General Counsel