

**Senator Curtis S. Bramble** proposes the following substitute bill:

**PROPERTY TAX AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: Ryan D. Wilcox

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**LONG TITLE**

**General Description:**

This bill amends provisions related to the taxation of real and personal property.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions related to the assessment and taxation of noncapitalized personal property;
- ▶ authorizes a county legislative body to reduce the value of property or issue a refund of property taxes paid under certain circumstances;
- ▶ modifies and enacts definitions related to the property tax exemption for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on January 1, 2014.

**Utah Code Sections Affected:**

AMENDS:



- 26           **59-2-108**, as last amended by Laws of Utah 2012, Chapter 313
  - 27           **59-2-301.4**, as enacted by Laws of Utah 2012, Chapter 85
  - 28           **59-2-1002**, as last amended by Laws of Utah 2012, Chapter 85
  - 29           **59-2-1101**, as last amended by Laws of Utah 2011, Chapters 44 and 366
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31 *Be it enacted by the Legislature of the state of Utah:*

32           Section 1. Section **59-2-108** is amended to read:

33           **59-2-108. Election for assessment and taxation of noncapitalized personal**  
34 **property according to a schedule.**

35           (1) As used in this section:

36           (a) (i) "Acquisition cost" means all costs required to put an item of tangible personal  
37 property into service; and

38           (ii) includes:

39           (A) the purchase price for a new or used item;

40           (B) the cost of freight and shipping;

41           (C) the cost of installation, engineering, erection, or assembly; and

42           (D) sales and use taxes.

43           (b) (i) "Item of taxable tangible personal property" does not include an improvement to  
44 real property or a part that will become an improvement.

45           (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
46 commission may make rules defining the term "item of taxable tangible personal property."

47           (c) "Noncapitalized personal property" means an item of tangible personal property  
48 [that]:

49           (i) that has an acquisition cost of \$1,000 or less; and

50           (ii) ~~[is claimed as allowed on a federal tax return as a deductible expense]~~ with respect  
51 to which a deduction is allowed under Section 162 or Section 179, Internal Revenue Code, in  
52 the year of acquisition, regardless of whether a deduction is actually claimed.

53           (d) "Taxable tangible personal property" means tangible personal property that is  
54 subject to taxation under this chapter.

55           (2) (a) A person may make an election for the noncapitalized personal property owned  
56 by the person to be assessed and taxed as provided in this section.

57 (b) Except as provided in Subsection (2)(c), a county may not require a person who  
58 makes an election under this section to:

59 (i) itemize noncapitalized personal property on the signed statement described in  
60 Section 59-2-306; or

61 (ii) track noncapitalized personal property.

62 (c) If a person's noncapitalized personal property for which the person makes an  
63 election under this section is [~~audited~~] examined in accordance with [~~Subsection~~] Section  
64 59-2-306[~~(3)~~], the person shall provide proof of the acquisition cost of the noncapitalized  
65 personal property.

66 (3) (a) An election under this section may not be revoked.

67 (b) Except as provided in Subsection (3)(d), if a person makes an election under this  
68 section with respect to noncapitalized personal property, the person shall pay taxes on the  
69 noncapitalized personal property according to the schedule described in Subsection (4).

70 (c) If a person sells or otherwise disposes of an item of noncapitalized personal  
71 property for which the person makes an election under this section prior to the fourth year after  
72 acquisition, the person shall continue to pay taxes according to the schedule described in  
73 Subsection (4).

74 (d) If a person makes an election under this section for noncapitalized personal  
75 property acquired on or before December 31, 2012, at a time after the first year after  
76 acquisition, the person shall pay taxes according to the taxable value for the applicable one or  
77 more years after acquisition as determined by the schedule described in Subsection (4).

78 (e) If a person makes an election under this section, the person may not appeal the  
79 values described in Subsection (4).

80 (4) The taxable value of noncapitalized personal property for which a person makes an  
81 election under this section is calculated by applying the percent good factor against the  
82 acquisition cost of the noncapitalized personal property as follows:

83 Noncapitalized Personal Property Schedule

Year after Acquisition	Percent Good of Acquisition Cost
First year after acquisition	75%
Second year after acquisition	50%

87	Third year after acquisition	25%
88	Fourth year after acquisition	0%

89 Section 2. Section **59-2-301.4** is amended to read:

90 **59-2-301.4. Definition -- Assessment of property after a reduction in value --**  
 91 **Other factors affecting fair market value -- County legislative body authority to reduce**  
 92 **value or issue a refund after a valuation reduction.**

93 (1) As used in this section, "valuation reduction" means a reduction in the value of  
 94 property on appeal if that reduction was made:

95 (a) within the three years before the January 1 of the year in which the property is being  
 96 assessed; and

97 (b) by a:

98 (i) county board of equalization in a final decision;

99 (ii) the commission in a final unappealable administrative order; or

100 (iii) a court of competent jurisdiction in a final unappealable judgment or order.

101 (2) In assessing the fair market value of property subject to a valuation reduction, a  
 102 county assessor shall consider in the assessor's determination of fair market value:

103 (a) any additional information about the property that was previously unknown or  
 104 unaccounted for by the assessor that is made known on appeal; and

105 (b) whether the reasons for the valuation reduction continue to influence the fair  
 106 market value of the property.

107 (3) This section does not prohibit a county assessor from including as part of a  
 108 determination of the fair market value of property any other factor affecting the fair market  
 109 value of the property.

110 (4) (a) Subject to the other provisions of this Subsection (4), for a calendar year, a  
 111 county legislative body may reduce the value of property, or issue a refund of property taxes  
 112 paid, if:

113 (i) a county board of equalization, the commission, or a court of competent jurisdiction  
 114 makes a valuation reduction with respect to the property;

115 (ii) the property is assessed in the next calendar year at a value that is at least five times  
 116 greater ~~§~~→ [that] than ←~~§~~ the value established at the time of the valuation reduction; and

117 (iii) the county legislative body determines that the assessed value described in  
118 Subsection (4)(a)(ii) exceeds fair market value.

119 (b) A county legislative body may make a reduction or refund under Subsection (4)(a)  
120 if an owner of the property:

121 (i) applies to the county legislative body; and

122 (ii) has not filed an appeal with the county board of equalization under Section  
123 59-2-1004 or the commission under Section 59-2-1006 with respect to the property for the  
124 calendar year in which the owner applies to the county legislative body under Subsection  
125 (4)(b)(i).

126 (c) A reduction described in Subsection (4)(a):

127 (i) may be made if the property taxes have not been paid for the calendar year for  
128 which an owner applies to the county legislative body under Subsection (4)(b)(i); and

129 (ii) is in an amount to ensure that the property is assessed at fair market value.

130 (d) A refund described in Subsection (4)(a):

131 (i) may be made if the property taxes have been paid for the calendar year for which an  
132 owner applies to the county legislative body under Subsection (4)(b)(i); and

133 (ii) is in an amount to ensure that the property is taxed at a uniform and equal rate on  
134 the basis of its fair market value.

135 Section 3. Section **59-2-1002** is amended to read:

136 **59-2-1002. Change in assessment -- Force and effect -- Additional assessments --**  
137 **Notice.**

138 (1) The county board of equalization shall use all information it may gain from the  
139 records of the county or elsewhere in equalizing the assessment of the property in the county or  
140 in determining any exemptions. The board may require the assessor to enter upon the  
141 assessment roll any taxable property which has not been assessed and any assessment made has  
142 the same force and effect as if made by the assessor before the delivery of the assessment roll  
143 to the county treasurer.

144 (2) During its sessions, the county board of equalization may direct the assessor to:

145 (a) assess any taxable property which has escaped assessment;

146 (b) add to the amount, number, or quantity of property when a false or incomplete list  
147 has been rendered; and

148 (c) make and enter new assessments, at the same time cancelling previous entries,  
149 when any assessment made by the assessor is considered by the board to be incomplete or  
150 incorrect.

151 (3) The clerk of the board of equalization shall give written notice:

152 (a) to all interested persons of the day fixed for the investigation of any assessment  
153 under consideration by the board at least 30 days before action is taken; and

154 (b) to the assessor of a valuation adjustment made in accordance with [Section]  
155 Subsection 59-2-301.4(2) or another adjustment under this section.

156 Section 4. Section **59-2-1101** is amended to read:

157 **59-2-1101. Definitions -- Exemption of certain property -- Proportional payments**  
158 **for certain property -- County legislative body authority to adopt rules or ordinances.**

159 (1) As used in this section:

160 (a) "Educational purposes" includes:

161 (i) the physical or mental teaching, training, or conditioning of competitive athletes by  
162 a national governing body of sport recognized by the United States Olympic Committee that  
163 qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code; and

164 (ii) an activity in support of or incidental to the teaching, training, or conditioning  
165 described in Subsection (1)(a)(i).

166 (b) "Exclusive use exemption" means a property tax exemption under Subsection  
167 (3)(a)(iv), for property owned by a nonprofit entity [~~that is~~] used exclusively for religious,  
168 charitable, or educational purposes.

169 (c) "Government exemption" means a property tax exemption provided under  
170 Subsection (3)(a)(i), (ii), or (iii).

171 (d) "Nonprofit entity" includes an entity if the:

172 (i) entity is treated as a disregarded entity for federal income tax purposes;

173 (ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity;

174 and

175 (iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit  
176 entity.

177 [~~(d)~~] (e) "Tax relief" means an exemption, deferral, or abatement that is authorized by  
178 this part.

179 (2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if  
180 the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

181 (b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional  
182 tax based upon the length of time that the property was not owned by the claimant if:

183 (i) the claimant is a federal, state, or political subdivision entity described in  
184 Subsection (3)(a)(i), (ii), or (iii); or

185 (ii) pursuant to Subsection (3)(a)(iv):

186 (A) the claimant is a nonprofit entity; and

187 (B) the property is used exclusively for religious, charitable, or educational purposes.

188 (c) Notwithstanding Subsection (2)(a), a claimant may be allowed a veteran's  
189 exemption in accordance with Sections 59-2-1104 and 59-2-1105 regardless of whether the  
190 claimant is the owner of the property as of January 1 of the year the exemption is claimed if the  
191 claimant is:

192 (i) the unmarried surviving spouse of:

193 (A) a deceased veteran with a disability as defined in Section 59-2-1104; or

194 (B) a veteran who was killed in action or died in the line of duty as defined in Section  
195 59-2-1104; or

196 (ii) a minor orphan of:

197 (A) a deceased veteran with a disability as defined in Section 59-2-1104; or

198 (B) a veteran who was killed in action or died in the line of duty as defined in Section  
199 59-2-1104.

200 (3) (a) The following property is exempt from taxation:

201 (i) property exempt under the laws of the United States;

202 (ii) property of:

203 (A) the state;

204 (B) school districts; and

205 (C) public libraries;

206 (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

207 (A) counties;

208 (B) cities;

209 (C) towns;

- 210 (D) local districts;
- 211 (E) special service districts; and
- 212 (F) all other political subdivisions of the state;
- 213 (iv) property owned by a nonprofit entity [~~which is~~] used exclusively for religious,
- 214 charitable, or educational purposes;
- 215 (v) places of burial not held or used for private or corporate benefit;
- 216 (vi) farm equipment and machinery;
- 217 (vii) intangible property; and
- 218 (viii) the ownership interest of an out-of-state public agency, as defined in Section
- 219 11-13-103:
  - 220 (A) if that ownership interest is in property providing additional project capacity, as
  - 221 defined in Section 11-13-103; and
  - 222 (B) on which a fee in lieu of ad valorem property tax is payable under Section
  - 223 11-13-302.
    - 224 (b) For purposes of a property tax exemption for property of school districts under
    - 225 Subsection (3)(a)(ii)(B), a charter school under Title 53A, Chapter 1a, Part 5, The Utah Charter
    - 226 Schools Act, is considered to be a school district.
- 227 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or
- 228 a government exemption ceases to qualify for the exemption because of a change in the
- 229 ownership of the property:
  - 230 (a) the new owner of the property shall pay a proportional tax based upon the period of
  - 231 time:
    - 232 (i) beginning on the day that the new owner acquired the property; and
    - 233 (ii) ending on the last day of the calendar year during which the new owner acquired
    - 234 the property; and
  - 235 (b) the new owner of the property and the person from whom the new owner acquires
  - 236 the property shall notify the county assessor, in writing, of the change in ownership of the
  - 237 property within 30 days from the day that the new owner acquires the property.
- 238 (5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection
- 239 (4)(a):
  - 240 (a) is subject to any exclusive use exemption or government exemption that the



241 property is entitled to under the new ownership of the property; and

242 (b) applies only to property that is acquired after December 31, 2005.

243 (6) A county legislative body may adopt rules or ordinances to:

244 (a) effectuate the exemptions, deferrals, abatements, or other relief from taxation

245 provided in this part; and

246 (b) designate one or more persons to perform the functions given the county under this

247 part.

248 Section 5. **Effective date.**

249 This bill takes effect on January 1, 2014.