

## SB0238S01 compared with SB0238

~~deleted text~~ shows text that was in SB0238 but was deleted in SB0238S01.

inserted text shows text that was not in SB0238 but was inserted into SB0238S01.

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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: \_\_\_\_\_

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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.

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### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill takes effect on January 1, 2014.

### Utah Code Sections Affected:

AMENDS:

**59-2-108**, as last amended by Laws of Utah 2012, Chapter 313

[59-2-301.4, as enacted by Laws of Utah 2012, Chapter 85](#)

[59-2-1002, as last amended by Laws of Utah 2012, Chapter 85](#)

**59-2-1101**, as last amended by Laws of Utah 2011, Chapters 44 and 366

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

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

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

(1) As used in this section:

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

(ii) includes:

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

(B) the cost of freight and shipping;

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

(D) sales and use taxes.

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

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

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

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

(ii) [~~is claimed as allowed on a federal tax return as a deductible expense~~] with respect

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to which a deduction is allowed under Section 162 or Section 179, Internal Revenue Code, in the year of acquisition, regardless of whether a deduction is actually claimed.

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

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

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

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

(ii) track noncapitalized personal property.

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

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

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

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

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

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

(4) The taxable value of noncapitalized personal property for which a person makes an election under this section is calculated by applying the percent good factor against the

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acquisition cost of the noncapitalized personal property as follows:

### Noncapitalized Personal Property Schedule

Year after Acquisition	Percent Good of Acquisition Cost
First year after acquisition	75%
Second year after acquisition	50%
Third year after acquisition	25%
Fourth year after acquisition	0%

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

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

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

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

(b) by a:

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

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

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

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

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

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

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

(4) (a) Subject to the other provisions of this Subsection (4), for a calendar year, a

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county legislative body may reduce the value of property, or issue a refund of property taxes paid, if:

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

(ii) the property is assessed in the next calendar year at a value that is at least five times greater than the value established at the time of the valuation reduction; and

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

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

(i) applies to the county legislative body; and

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

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

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

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

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

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

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

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

**59-2-1002. Change in assessment -- Force and effect -- Additional assessments -- Notice{ to interested persons}.**

(1) The county board of equalization shall use all information it may gain from the records of the county or elsewhere in equalizing the assessment of the property in the county or in determining any exemptions. The board may require the assessor to enter upon the assessment roll any taxable property which has not been assessed and any assessment made has

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the same force and effect as if made by the assessor before the delivery of the assessment roll to the county treasurer.

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

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

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

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

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

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

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

Section ~~{2}4~~. Section **59-2-1101** is amended to read:

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

(1) As used in this section:

(a) "Educational purposes" includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) the claimant is a nonprofit entity; and

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

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

(i) the unmarried surviving spouse of:

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

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

(ii) a minor orphan of:

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

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

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

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

(ii) property of:

(A) the state;

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- (B) school districts; and
- (C) public libraries;
- (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:
  - (A) counties;
  - (B) cities;
  - (C) towns;
  - (D) local districts;
  - (E) special service districts; and
  - (F) all other political subdivisions of the state;
- (iv) property owned by a nonprofit entity [~~which is~~] used exclusively for religious, charitable, or educational purposes;
  - (v) places of burial not held or used for private or corporate benefit;
  - (vi) farm equipment and machinery;
  - (vii) intangible property; and
  - (viii) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:
    - (A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and
    - (B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.
  - (b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act, is considered to be a school district.
- (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:
  - (a) the new owner of the property shall pay a proportional tax based upon the period of time:
    - (i) beginning on the day that the new owner acquired the property; and
    - (ii) ending on the last day of the calendar year during which the new owner acquired the property; and



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(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

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

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

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part; and

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

Section ~~{3}~~5. **Effective date.**

This bill takes effect on January 1, 2014.

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**Legislative Review Note**

~~as of 2-25-13 11:06 AM~~

~~Office of Legislative Research and General Counsel}~~