

PROPERTY TAX AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Ryan D. Wilcox

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;
- ▶ 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:

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

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

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



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

29 **59-2-108. Election for assessment and taxation of noncapitalized personal**
30 **property according to a schedule.**

31 (1) As used in this section:

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

34 (ii) includes:

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

36 (B) the cost of freight and shipping;

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

38 (D) sales and use taxes.

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

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

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

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

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

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

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

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

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

57 (ii) track noncapitalized personal property.

58 (c) If a person's noncapitalized personal property for which the person makes an

59 election under this section is ~~audited~~ examined in accordance with ~~Subsection~~ Section
60 59-2-306~~(3)~~, the person shall provide proof of the acquisition cost of the noncapitalized
61 personal property.

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

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

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

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

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

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

79 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%

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

86 **59-2-1101. Definitions -- Exemption of certain property -- Proportional payments**
87 **for certain property -- County legislative body authority to adopt rules or ordinances.**

88 (1) As used in this section:

89 (a) "Educational purposes" includes:

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

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

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

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

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

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

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

103 and

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

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

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

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

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

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

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

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

117 (c) Notwithstanding Subsection (2)(a), a claimant may be allowed a veteran's
118 exemption in accordance with Sections 59-2-1104 and 59-2-1105 regardless of whether the

119 claimant is the owner of the property as of January 1 of the year the exemption is claimed if the
120 claimant is:

121 (i) the unmarried surviving spouse of:

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

123 (B) a veteran who was killed in action or died in the line of duty as defined in Section
124 59-2-1104; or

125 (ii) a minor orphan of:

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

127 (B) a veteran who was killed in action or died in the line of duty as defined in Section
128 59-2-1104.

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

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

131 (ii) property of:

132 (A) the state;

133 (B) school districts; and

134 (C) public libraries;

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

136 (A) counties;

137 (B) cities;

138 (C) towns;

139 (D) local districts;

140 (E) special service districts; and

141 (F) all other political subdivisions of the state;

142 (iv) property owned by a nonprofit entity [~~which is~~] used exclusively for religious,
143 charitable, or educational purposes;

144 (v) places of burial not held or used for private or corporate benefit;

145 (vi) farm equipment and machinery;

146 (vii) intangible property; and

147 (viii) the ownership interest of an out-of-state public agency, as defined in Section
148 11-13-103:

149 (A) if that ownership interest is in property providing additional project capacity, as

150 defined in Section 11-13-103; and

151 (B) on which a fee in lieu of ad valorem property tax is payable under Section
152 11-13-302.

153 (b) For purposes of a property tax exemption for property of school districts under
154 Subsection (3)(a)(ii)(B), a charter school under Title 53A, Chapter 1a, Part 5, The Utah Charter
155 Schools Act, is considered to be a school district.

156 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or
157 a government exemption ceases to qualify for the exemption because of a change in the
158 ownership of the property:

159 (a) the new owner of the property shall pay a proportional tax based upon the period of
160 time:

161 (i) beginning on the day that the new owner acquired the property; and

162 (ii) ending on the last day of the calendar year during which the new owner acquired
163 the property; and

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

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

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

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

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

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

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

177 **Section 3. Effective date.**

178 This bill takes effect on January 1, 2014.

Legislative Review Note
as of 2-25-13 11:06 AM

Office of Legislative Research and General Counsel