

1 **PRIVILEGE TAX AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jon E. Stanard**

5 Senate Sponsor: Curtis S. Bramble

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7 **LONG TITLE**

8 **Committee Note:**

9 The Revenue and Taxation Interim Committee recommended this bill.

10 **General Description:**

11 This bill modifies the privilege tax statute.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines "exclusive possession" as it relates to a privilege tax; and
- 15 ▶ makes technical changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 This bill provides for retrospective operation.

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **59-4-101**, as last amended by Laws of Utah 2015, Chapter 199

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

25 Section 1. Section **59-4-101** is amended to read:

26 **59-4-101. Tax basis -- Exceptions -- Assessment and collection.**

27 (1) As used in this section, "exclusive possession" means:



28 (a) for real property, the beneficial use of the property, together with the ability to  
29 exclude from occupancy and use any person other than the owner or an agent of the owner; and

30 (b) for personal property, the beneficial use of the property, together with the ability to  
31 exclude any person other than the owner or an agent of the owner from the beneficial use of the  
32 property.

33 ~~[(+)]~~ (2) (a) Except as provided in Subsections ~~[(+)]~~ (2)(b) ~~[and]~~, (2)(c), and (4), a tax  
34 is imposed on the possession or other beneficial use enjoyed by any person of any real or  
35 personal property ~~[which]~~ that is exempt for any reason ~~[is exempt]~~ from taxation, if that  
36 property is used in connection with a business conducted for profit.

37 (b) Any interest remaining in the state in state lands after subtracting amounts paid or  
38 due in part payment of the purchase price as provided in Subsection 59-2-1103(2)(b)(i) under a  
39 contract of sale is subject to taxation under this chapter regardless of whether the property is  
40 used in connection with a business conducted for profit.

41 (c) The tax imposed under Subsection ~~[(+)]~~ (2)(a) does not apply to property exempt  
42 from taxation under Section 59-2-1114.

43 ~~[(2)]~~ (3) (a) The tax imposed under this chapter is the same amount that the ad  
44 valorem property tax would be if the possessor or user were the owner of the property.

45 (b) The amount of any payments ~~[which]~~ that are made in lieu of taxes is credited  
46 against the tax imposed on the beneficial use of property owned by the federal government.

47 ~~[(3)]~~ (4) A tax is not imposed under this chapter on the following:

48 (a) the use of property ~~[which]~~ that is a concession in, or relative to, the use of a public  
49 airport, park, fairground, or similar property ~~[which]~~ that is available as a matter of right to the  
50 use of the general public;

51 (b) the use or possession of property by a religious, educational, or charitable  
52 organization;

53 (c) the use or possession of property if the revenue generated by the possessor or user  
54 of the property through its possession or use of the property inures only to the benefit of a  
55 religious, educational, or charitable organization and not to the benefit of any other person;

56 (d) the possession or other beneficial use of public land occupied under the terms of an  
57 agricultural lease or permit issued by the United States or this state;

58 (e) the use or possession of any lease, permit, or easement unless the lease, permit, or

59 easement entitles the lessee or permittee to exclusive possession of the premises to which the  
60 lease, permit, or easement relates. Every lessee, permittee, or other holder of a right to remove  
61 or extract the mineral covered by the holder's lease, right, permit, or easement, except from  
62 brines of the Great Salt Lake, is considered to be in possession of the premises,

63 ~~[notwithstanding the fact that other parties may have]~~ regardless of whether another party has a  
64 similar right to remove or extract another mineral from the same ~~[lands or estates]~~ property;

65 (f) the use or possession of property by a public agency, as defined in Section  
66 11-13-103, to the extent that the ownership interest of the public agency in that property is  
67 subject to a fee in lieu of ad valorem property tax under Section 11-13-302; or

68 (g) the possession or beneficial use of public property as a tollway by a private entity  
69 through a tollway development agreement as defined in Section 72-6-202.

70 ~~[(4)]~~ (5) A tax imposed under this chapter is assessed to the possessors or users of the  
71 property on the same forms, and collected and distributed at the same time and in the same  
72 manner, as taxes assessed owners, possessors, or other claimants of property ~~[which]~~ that is  
73 subject to ad valorem property taxation. The tax is not a lien against the property, and no  
74 tax-exempt property may be attached, encumbered, sold, or otherwise affected for the  
75 collection of the tax.

76 ~~[(5)]~~ (6) Sections 59-2-301.1 through 59-2-301.7 apply for purposes of assessing a tax  
77 under this chapter.

78 Section 2. **Retrospective operation.**

79 This bill has retrospective operation to January 1, 2015.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**