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**PROPERTY ASSESSMENT AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Deidre M. Henderson**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**Committee Note:**

The Revenue and Taxation Interim Committee recommended this bill.

**General Description:**

This bill addresses the property tax assessment of special purpose properties.

**Highlighted Provisions:**

This bill:

- ▶ defines special purpose property and other terms;
- ▶ requires a county assessor to consider certain factors in determining the fair market value of a special purpose property; and
- ▶ provides that provisions requiring a county assessor to consider certain factors in determining the fair market value of a special purpose property apply to the privilege tax.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**59-4-101**, as last amended by Laws of Utah 2016, Chapter 366

ENACTS:



28 **59-2-301.8**, Utah Code Annotated 1953



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

31 Section 1. Section **59-2-301.8** is enacted to read:

32 **59-2-301.8. Definitions -- Assessment of special purpose property.**

33 (1) As used in this section:

34 (a) "Diminished productive value" means that a property with improvements has a  
35 significantly reduced ability to generate income as a result of not being used for the purpose for  
36 which the improvements were built.

37 (b) "Special purpose property" means a property with improvements that have a unique  
38 physical design or layout, were constructed of special materials, or have some other physical  
39 attribute that:

40 (i) restricts the utility of the property to the purpose for which the improvements were  
41 built;

42 (ii) due to financial considerations, restricts the ability of another occupant to convert  
43 the property to another use; and

44 (iii) limits the market for the property.

45 (2) (a) In assessing the fair market value of a special purpose property, a county  
46 assessor shall consider whether the special purpose property has diminished productive value.

47 (b) In assessing the fair market value of a special purpose property that does not have  
48 diminished productive value, a county assessor shall consider, as a primary factor, the cost of  
49 constructing improvements that are equivalent to the improvements currently on the property.

50 (c) In assessing the fair market value of a special purpose property that does not have  
51 diminished productive value and that is being rented or leased, a county assessor shall consider  
52 the terms of the agreement that provides for the rental or lease of the special purpose property.

53 (3) (a) Subsection (2)(b) applies to the extent a county assessor knows, or reasonably  
54 should have known:

55 (i) that the property is a special purpose property; and

56 (ii) the purpose for which the special purpose property was built.

57 (b) Subsection (2)(c) applies to the extent a county assessor knows, or reasonably  
58 should have known, the terms of the rent or lease agreement.

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

62           Section 2. Section **59-4-101** is amended to read:

63           **59-4-101. Tax basis -- Exceptions -- Assessment and collection.**

64           (1) (a) Except as provided in Subsections (1)(b), (1)(c), and (3), a tax is imposed on the  
65 possession or other beneficial use enjoyed by any person of any real or personal property that is  
66 exempt for any reason from taxation, if that property is used in connection with a business  
67 conducted for profit.

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

72           (c) The tax imposed under Subsection (1)(a) does not apply to property exempt from  
73 taxation under Section [59-2-1114](#).

74           (2) (a) The tax imposed under this chapter is the same amount that the ad valorem  
75 property tax would be if the possessor or user were the owner of the property.

76           (b) The amount of any payments that are made in lieu of taxes is credited against the  
77 tax imposed on the beneficial use of property owned by the federal government.

78           (3) A tax is not imposed under this chapter on the following:

79           (a) the use of property that is a concession in, or relative to, the use of a public airport,  
80 park, fairground, or similar property that is available as a matter of right to the use of the  
81 general public;

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

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

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

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

90 easement entitles the lessee or permittee to exclusive possession of the premises to which the  
91 lease, permit, or easement relates;

92 (f) the use or possession of property by a public agency, as defined in Section  
93 [11-13-103](#), to the extent that the ownership interest of the public agency in that property is  
94 subject to a fee in lieu of ad valorem property tax under Section [11-13-302](#); or

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

97 (4) For purposes of Subsection (3)(e):

98 (a) every lessee, permittee, or other holder of a right to remove or extract the mineral  
99 covered by the holder's lease, right permit, or easement, except from brines of the Great Salt  
100 Lake, is considered to be in possession of the premises, regardless of whether another party has  
101 a similar right to remove or extract another mineral from the same property; and

102 (b) a lessee, permittee, or holder of an easement still has exclusive possession of the  
103 premises if the owner has the right to enter the premises, approve leasehold improvements, or  
104 inspect the premises.

105 (5) A tax imposed under this chapter is assessed to the possessors or users of the  
106 property on the same forms, and collected and distributed at the same time and in the same  
107 manner, as taxes assessed owners, possessors, or other claimants of property that is subject to  
108 ad valorem property taxation. The tax is not a lien against the property, and no tax-exempt  
109 property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.

110 (6) Sections [59-2-301.1](#) through [~~[59-2-301.7](#)~~] [59-2-301.8](#) apply for purposes of  
111 assessing a tax under this chapter.

112 Section 3. **Effective date.**

113 This bill takes effect on January 1, 2018.

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