

Representative Daniel McCay proposes the following substitute bill:

PERSONAL PROPERTY TAX REVISIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: Howard A. Stephenson

LONG TITLE

General Description:

This bill modifies the Property Tax Act by amending provisions relating to the taxation of tangible personal property.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ exempts from taxation certain items of taxable tangible personal property;
- ▶ amends requirements for a taxpayer to provide a signed statement for certain tangible personal property in certain circumstances; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-102, as last amended by Laws of Utah 2016, Chapters 98, 308, 367, and 368

59-2-108, as last amended by Laws of Utah 2013, Chapter 248



26 [59-2-804](#), as last amended by Laws of Utah 2014, Chapter 65
 27 [59-2-1115](#), as last amended by Laws of Utah 2013, Chapters 19 and 147
 28 [59-7-302](#), as last amended by Laws of Utah 2017, Chapters 181 and 268

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

31 Section 1. Section **59-2-102** is amended to read:

32 **59-2-102. Definitions.**

33 As used in this chapter and title:

34 (1) (a) "Acquisition cost" means all the costs required to put an item of tangible
 35 personal property into service.

36 (b) "Acquisition cost" includes:

37 (i) the purchase price of a new or used item;

38 (ii) the cost of freight, shipping, loading at origin, unloading at destination, crating,
 39 skidding, or other applicable costs of shipping;

40 (iii) the cost of installation, engineering, rigging, erection, or assembly, including
 41 foundations, pilings, utility connections, or other similar costs; and

42 (iv) sales and use taxes.

43 ~~[(1)]~~ (2) "Aerial applicator" means aircraft or rotorcraft used exclusively for the
 44 purpose of engaging in dispensing activities directly affecting agriculture or horticulture with
 45 an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or
 46 rotorcraft's use for agricultural and pest control purposes.

47 ~~[(2)]~~ (3) "Air charter service" means an air carrier operation that requires the customer
 48 to hire an entire aircraft rather than book passage in whatever capacity is available on a
 49 scheduled trip.

50 ~~[(3)]~~ (4) "Air contract service" means an air carrier operation available only to
 51 customers that engage the services of the carrier through a contractual agreement and excess
 52 capacity on any trip and is not available to the public at large.

53 ~~[(4)]~~ (5) "Aircraft" means the same as that term is defined in Section [72-10-102](#).

54 ~~[(5)]~~ (6) (a) Except as provided in Subsection ~~[(5)]~~ (6)(b), "airline" means an air carrier
 55 that:

56 (i) operates:

57 (A) on an interstate route; and
58 (B) on a scheduled basis; and
59 (ii) offers to fly one or more passengers or cargo on the basis of available capacity on a
60 regularly scheduled route.

61 (b) "Airline" does not include an:
62 (i) air charter service; or
63 (ii) air contract service.

64 ~~[(6)]~~ (7) "Assessment roll" means a permanent record of the assessment of property as
65 assessed by the county assessor and the commission and may be maintained manually or as a
66 computerized file as a consolidated record or as multiple records by type, classification, or
67 categories.

68 ~~[(7)]~~ (8) "Base parcel" means a parcel of property that was legally:
69 (a) subdivided into two or more lots, parcels, or other divisions of land; or
70 (b) (i) combined with one or more other parcels of property; and
71 (ii) subdivided into two or more lots, parcels, or other divisions of land.

72 ~~[(8)]~~ (9) (a) "Certified revenue levy" means a property tax levy that provides an amount
73 of ad valorem property tax revenue equal to the sum of:

74 (i) the amount of ad valorem property tax revenue to be generated statewide in the
75 previous year from imposing a school minimum basic tax rate, as specified in Section
76 [53A-17a-135](#), or multicounty assessing and collecting levy, as specified in Section [59-2-1602](#);
77 and

78 (ii) the product of:
79 (A) eligible new growth, as defined in Section [59-2-924](#); and
80 (B) the school minimum basic tax rate or multicounty assessing and collecting levy
81 certified by the commission for the previous year.

82 (b) For purposes of this Subsection ~~[(8)]~~ (9), "ad valorem property tax revenue" does
83 not include property tax revenue received by a taxing entity from personal property that is:

84 (i) assessed by a county assessor in accordance with Part 3, County Assessment; and
85 (ii) semiconductor manufacturing equipment.

86 (c) For purposes of calculating the certified revenue levy described in this Subsection
87 ~~[(8)]~~ (9), the commission shall use:

88 (i) the taxable value of real property assessed by a county assessor contained on the
89 assessment roll;

90 (ii) the taxable value of real and personal property assessed by the commission; and

91 (iii) the taxable year end value of personal property assessed by a county assessor
92 contained on the prior year's assessment roll.

93 ~~[(9)]~~ (10) "County-assessed commercial vehicle" means:

94 (a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section
95 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in
96 furtherance of the owner's commercial enterprise;

97 (b) any passenger vehicle owned by a business and used by its employees for
98 transportation as a company car or vanpool vehicle; and

99 (c) vehicles that are:

100 (i) especially constructed for towing or wrecking, and that are not otherwise used to
101 transport goods, merchandise, or people for compensation;

102 (ii) used or licensed as taxicabs or limousines;

103 (iii) used as rental passenger cars, travel trailers, or motor homes;

104 (iv) used or licensed in this state for use as ambulances or hearses;

105 (v) especially designed and used for garbage and rubbish collection; or

106 (vi) used exclusively to transport students or their instructors to or from any private,
107 public, or religious school or school activities.

108 ~~[(10)]~~ (11) (a) Except as provided in Subsection ~~[(10)]~~ (11)(b), for purposes of Section
109 59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only
110 the following taxing entities:

111 (i) a county; and

112 (ii) a school district.

113 (b) "Designated tax area" includes a tax area created by the overlapping boundaries of
114 the taxing entities described in Subsection ~~[(10)]~~ (11)(a) and:

115 (i) a city or town if the boundaries of the school district under Subsection ~~[(10)]~~ (11)(a)
116 and the boundaries of the city or town are identical; or

117 (ii) a special service district if the boundaries of the school district under Subsection
118 ~~[(10)]~~ (11)(a) are located entirely within the special service district.

119 ~~[(11)]~~ (12) "Eligible judgment" means a final and unappealable judgment or order
120 under Section [59-2-1330](#):

121 (a) that became a final and unappealable judgment or order no more than 14 months
122 before the day on which the notice described in Section [59-2-919.1](#) is required to be provided;
123 and

124 (b) for which a taxing entity's share of the final and unappealable judgment or order is
125 greater than or equal to the lesser of:

126 (i) \$5,000; or

127 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the
128 previous fiscal year.

129 ~~[(12)]~~ (13) (a) "Escaped property" means any property, whether personal, land, or any
130 improvements to the property, that is subject to taxation and is:

131 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
132 to the wrong taxpayer by the assessing authority;

133 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
134 comply with the reporting requirements of this chapter; or

135 (iii) undervalued because of errors made by the assessing authority based upon
136 incomplete or erroneous information furnished by the taxpayer.

137 (b) "Escaped property" does not include property that is undervalued because of the use
138 of a different valuation methodology or because of a different application of the same valuation
139 methodology.

140 ~~[(13)]~~ (14) "Fair market value" means the amount at which property would change
141 hands between a willing buyer and a willing seller, neither being under any compulsion to buy
142 or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation,
143 "fair market value" shall be determined using the current zoning laws applicable to the property
144 in question, except in cases where there is a reasonable probability of a change in the zoning
145 laws affecting that property in the tax year in question and the change would have an
146 appreciable influence upon the value.

147 ~~[(14)]~~ (15) (a) "Farm machinery and equipment," for purposes of the exemption
148 provided under Section [59-2-1101](#), means tractors, milking equipment and storage and cooling
149 facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and

150 planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers
151 and cubers, and any other machinery or equipment used primarily for agricultural purposes.

152 (b) "Farm machinery and equipment" does not include vehicles required to be
153 registered with the Motor Vehicle Division or vehicles or other equipment used for business
154 purposes other than farming.

155 [~~(15)~~] (16) "Geothermal fluid" means water in any form at temperatures greater than
156 120 degrees centigrade naturally present in a geothermal system.

157 [~~(16)~~] (17) "Geothermal resource" means:

158 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;
159 and

160 (b) the energy, in whatever form, including pressure, present in, resulting from, created
161 by, or which may be extracted from that natural heat, directly or through a material medium.

162 [~~(17)~~] (18) (a) "Goodwill" means:

163 (i) acquired goodwill that is reported as goodwill on the books and records that a
164 taxpayer maintains for financial reporting purposes; or

165 (ii) the ability of a business to:

166 (A) generate income that exceeds a normal rate of return on assets and that results from
167 a factor described in Subsection [~~(17)~~] (18)(b); or

168 (B) obtain an economic or competitive advantage resulting from a factor described in
169 Subsection [~~(17)~~] (18)(b).

170 (b) The following factors apply to Subsection [~~(17)~~] (18)(a)(ii):

171 (i) superior management skills;

172 (ii) reputation;

173 (iii) customer relationships;

174 (iv) patronage; or

175 (v) a factor similar to Subsections [~~(17)~~] (18)(b)(i) through (iv).

176 (c) "Goodwill" does not include:

177 (i) the intangible property described in Subsection [~~(21)~~] (22)(a) or (b);

178 (ii) locational attributes of real property, including:

179 (A) zoning;

180 (B) location;

- 181 (C) view;
- 182 (D) a geographic feature;
- 183 (E) an easement;
- 184 (F) a covenant;
- 185 (G) proximity to raw materials;
- 186 (H) the condition of surrounding property; or
- 187 (I) proximity to markets;
- 188 (iii) value attributable to the identification of an improvement to real property,
- 189 including:
- 190 (A) reputation of the designer, builder, or architect of the improvement;
- 191 (B) a name given to, or associated with, the improvement; or
- 192 (C) the historic significance of an improvement; or
- 193 (iv) the enhancement or assemblage value specifically attributable to the interrelation
- 194 of the existing tangible property in place working together as a unit.

195 [~~18~~] (19) "Governing body" means:

- 196 (a) for a county, city, or town, the legislative body of the county, city, or town;
- 197 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
- 198 Local Districts, the local district's board of trustees;
- 199 (c) for a school district, the local board of education; or
- 200 (d) for a special service district under Title 17D, Chapter 1, Special Service District

201 Act:

- 202 (i) the legislative body of the county or municipality that created the special service
- 203 district, to the extent that the county or municipal legislative body has not delegated authority
- 204 to an administrative control board established under Section 17D-1-301; or
- 205 (ii) the administrative control board, to the extent that the county or municipal
- 206 legislative body has delegated authority to an administrative control board established under
- 207 Section 17D-1-301.

208 [~~19~~] (20) (a) For purposes of Section 59-2-103:

- 209 (i) "household" means the association of individuals who live in the same dwelling,
- 210 sharing its furnishings, facilities, accommodations, and expenses; and
- 211 (ii) "household" includes married individuals, who are not legally separated, that have

212 established domiciles at separate locations within the state.

213 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
214 commission may make rules defining the term "domicile."

215 ~~[(20)]~~ (21) (a) Except as provided in Subsection ~~[(20)]~~ (21)(c), "improvement" means a
216 building, structure, fixture, fence, or other item that is permanently attached to land, regardless
217 of whether the title has been acquired to the land, if:

218 (i) (A) attachment to land is essential to the operation or use of the item; and

219 (B) the manner of attachment to land suggests that the item will remain attached to the
220 land in the same place over the useful life of the item; or

221 (ii) removal of the item would:

222 (A) cause substantial damage to the item; or

223 (B) require substantial alteration or repair of a structure to which the item is attached.

224 (b) "Improvement" includes:

225 (i) an accessory to an item described in Subsection ~~[(20)]~~ (21)(a) if the accessory is:

226 (A) essential to the operation of the item described in Subsection ~~[(20)]~~ (21)(a); and

227 (B) installed solely to serve the operation of the item described in Subsection ~~[(20)]~~

228 (21)(a); and

229 (ii) an item described in Subsection ~~[(20)]~~ (21)(a) that is temporarily detached from the
230 land for repairs and remains located on the land.

231 (c) "Improvement" does not include:

232 (i) an item considered to be personal property pursuant to rules made in accordance
233 with Section [59-2-107](#);

234 (ii) a moveable item that is attached to land for stability only or for an obvious
235 temporary purpose;

236 (iii) (A) manufacturing equipment and machinery; or

237 (B) essential accessories to manufacturing equipment and machinery;

238 (iv) an item attached to the land in a manner that facilitates removal without substantial
239 damage to the land or the item; or

240 (v) a transportable factory-built housing unit as defined in Section [59-2-1502](#) if that
241 transportable factory-built housing unit is considered to be personal property under Section
242 [59-2-1503](#).

- 243 [~~(21)~~] (22) "Intangible property" means:
- 244 (a) property that is capable of private ownership separate from tangible property,
- 245 including:
- 246 (i) money;
- 247 (ii) credits;
- 248 (iii) bonds;
- 249 (iv) stocks;
- 250 (v) representative property;
- 251 (vi) franchises;
- 252 (vii) licenses;
- 253 (viii) trade names;
- 254 (ix) copyrights; and
- 255 (x) patents;
- 256 (b) a low-income housing tax credit;
- 257 (c) goodwill; or
- 258 (d) a renewable energy tax credit or incentive, including:
- 259 (i) a federal renewable energy production tax credit under Section 45, Internal Revenue
- 260 Code;
- 261 (ii) a federal energy credit for qualified renewable electricity production facilities under
- 262 Section 48, Internal Revenue Code;
- 263 (iii) a federal grant for a renewable energy property under American Recovery and
- 264 Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
- 265 (iv) a tax credit under Subsection [59-7-614\(5\)](#).
- 266 [~~(22)~~] (23) "Livestock" means:
- 267 (a) a domestic animal;
- 268 (b) a fish;
- 269 (c) a fur-bearing animal;
- 270 (d) a honeybee; or
- 271 (e) poultry.
- 272 [~~(23)~~] (24) "Low-income housing tax credit" means:
- 273 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;

274 or

275 (b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

276 [~~24~~] (25) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and
277 uranium.

278 [~~25~~] (26) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
279 valuable mineral.

280 [~~26~~] (27) "Mining" means the process of producing, extracting, leaching, evaporating,
281 or otherwise removing a mineral from a mine.

282 [~~27~~] (28) (a) "Mobile flight equipment" means tangible personal property that is
283 owned or operated by an air charter service, air contract service, or airline and:

284 (i) is capable of flight or is attached to an aircraft that is capable of flight; or

285 (ii) is contained in an aircraft that is capable of flight if the tangible personal property
286 is intended to be used:

287 (A) during multiple flights;

288 (B) during a takeoff, flight, or landing; and

289 (C) as a service provided by an air charter service, air contract service, or airline.

290 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
291 engine that is rotated at regular intervals with an engine that is attached to the aircraft.

292 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
293 commission may make rules defining the term "regular intervals."

294 [~~28~~] (29) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal,
295 salts, sand, rock, gravel, and all carboniferous materials.

296 [~~29~~] (30) "Part-year residential property" means property that is not residential
297 property on January 1 of a calendar year but becomes residential property after January 1 of the
298 calendar year.

299 [~~30~~] (31) "Personal property" includes:

300 (a) every class of property as defined in Subsection [~~31~~] (32) that is the subject of
301 ownership and is not real estate or an improvement;

302 (b) any pipe laid in or affixed to land whether or not the ownership of the pipe is
303 separate from the ownership of the underlying land, even if the pipe meets the definition of an
304 improvement;

305 (c) bridges and ferries;
306 (d) livestock; and
307 (e) outdoor advertising structures as defined in Section 72-7-502.
308 ~~[(31)]~~ (32) (a) "Property" means property that is subject to assessment and taxation
309 according to its value.
310 (b) "Property" does not include intangible property as defined in this section.
311 ~~[(32)]~~ (33) "Public utility" means:
312 (a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil
313 or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation,
314 telephone corporation, sewerage corporation, or heat corporation where the company performs
315 the service for, or delivers the commodity to, the public generally or companies serving the
316 public generally, or in the case of a gas corporation or an electrical corporation, where the gas
317 or electricity is sold or furnished to any member or consumers within the state for domestic,
318 commercial, or industrial use; and
319 (b) the operating property of any entity or person defined under Section 54-2-1 except
320 water corporations.
321 ~~[(33)]~~ (34) (a) Subject to Subsection ~~[(33)]~~ (34)(b), "qualifying exempt primary
322 residential rental personal property" means household furnishings, furniture, and equipment
323 that:
324 (i) are used exclusively within a dwelling unit that is the primary residence of a tenant;
325 (ii) are owned by the owner of the dwelling unit that is the primary residence of a
326 tenant; and
327 (iii) after applying the residential exemption described in Section 59-2-103, are exempt
328 from taxation under this chapter in accordance with Subsection 59-2-1115(2).
329 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
330 commission may by rule define the term "dwelling unit" for purposes of this Subsection ~~[(33)]~~
331 (34) and Subsection ~~[(36)]~~ (37).
332 ~~[(34)]~~ (35) "Real estate" or "real property" includes:
333 (a) the possession of, claim to, ownership of, or right to the possession of land;
334 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
335 individuals or corporations growing or being on the lands of this state or the United States, and

336 all rights and privileges appertaining to these; and

337 (c) improvements.

338 ~~[(35)]~~ (36) (a) "Relationship with an owner of the property's land surface rights" means
339 a relationship described in Subsection 267(b), Internal Revenue Code, except that the term
340 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

341 (b) For purposes of determining if a relationship described in Subsection 267(b),
342 Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership
343 rules in Subsection 267(c), Internal Revenue Code.

344 ~~[(36)]~~ (37) (a) Subject to Subsection ~~[(36)]~~ (37)(b), "residential property," for purposes
345 of the reductions and adjustments under this chapter, means any property used for residential
346 purposes as a primary residence.

347 (b) Subject to Subsection ~~[(36)]~~ (37)(c), "residential property":

348 (i) except as provided in Subsection ~~[(36)]~~ (37)(b)(ii), includes household furnishings,
349 furniture, and equipment if the household furnishings, furniture, and equipment are:

350 (A) used exclusively within a dwelling unit that is the primary residence of a tenant;

351 and

352 (B) owned by the owner of the dwelling unit that is the primary residence of a tenant;

353 and

354 (ii) does not include property used for transient residential use.

355 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
356 commission may by rule define the term "dwelling unit" for purposes of Subsection ~~[(33)]~~ (34)
357 and this Subsection ~~[(36)]~~ (37).

358 ~~[(37)]~~ (38) "Split estate mineral rights owner" means a person that:

359 (a) has a legal right to extract a mineral from property;

360 (b) does not hold more than a 25% interest in:

361 (i) the land surface rights of the property where the wellhead is located; or

362 (ii) an entity with an ownership interest in the land surface rights of the property where
363 the wellhead is located;

364 (c) is not an entity in which the owner of the land surface rights of the property where
365 the wellhead is located holds more than a 25% interest; and

366 (d) does not have a relationship with an owner of the land surface rights of the property

367 where the wellhead is located.

368 ~~[(38)]~~ (39) (a) "State-assessed commercial vehicle" means:

369 (i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to
370 transport passengers, freight, merchandise, or other property for hire; or

371 (ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports
372 the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

373 (b) "State-assessed commercial vehicle" does not include vehicles used for hire that are
374 specified in Subsection ~~[(9)]~~ (10)(c) as county-assessed commercial vehicles.

375 ~~[(39)]~~ (40) "Subdivided lot" means a lot, parcel, or other division of land, that is a
376 division of a base parcel.

377 (41) "Tax area" means a geographic area created by the overlapping boundaries of one
378 or more taxing entities.

379 ~~[(43)]~~ (42) (a) "Tax roll" means a permanent record of the taxes charged on property,
380 as extended on the assessment roll, and may be maintained on the same record or records as the
381 assessment roll or may be maintained on a separate record properly indexed to the assessment
382 roll.

383 ~~[(40)]~~ (43) "Taxable value" means fair market value less any applicable reduction
384 allowed for residential property under Section 59-2-103.

385 ~~[(42)]~~ (44) "Taxing entity" means any county, city, town, school district, special taxing
386 district, local district under Title 17B, Limited Purpose Local Government Entities - Local
387 Districts, or other political subdivision of the state with the authority to levy a tax on property.

388 (b) "Tax roll" includes tax books, tax lists, and other similar materials.

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

390 **59-2-108. Election for assessment and taxation of noncapitalized personal**
391 **property according to a schedule.**

392 (1) As used in this section:

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

395 ~~[(ii) includes:]~~

396 ~~[(A) the purchase price for a new or used item;]~~

397 ~~[(B) the cost of freight and shipping;]~~

398 [~~(C)~~ the cost of installation, engineering, erection, or assembly; and]

399 [~~(D)~~ sales and use taxes.]

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

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

404 [~~(c)~~] (b) "Noncapitalized personal property" means an item of tangible personal
405 property:

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

407 (ii) with respect to which a deduction is allowed under Section 162 or Section 179,
408 Internal Revenue Code, in the year of acquisition, regardless of whether a deduction is actually
409 claimed.

410 [~~(d)~~] (c) "Taxable tangible personal property" means tangible personal property that is
411 subject to taxation under this chapter.

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

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

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

418 (ii) track noncapitalized personal property.

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

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

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

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

429 Subsection (4).

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

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

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

439 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%

445 Section 3. Section **59-2-804** is amended to read:

446 **59-2-804. Interstate allocation of mobile flight equipment.**

447 (1) As used in this section:

448 (a) "Aircraft type" means a particular model of aircraft as designated by the
449 manufacturer of the aircraft.

450 (b) "Airline ground hours calculation" means an amount equal to the product of:

451 (i) the total number of hours aircraft owned or operated by an airline are on the ground,
452 calculated by aircraft type; and

453 (ii) the cost percentage.

454 (c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during
455 the calendar year that immediately precedes the January 1 described in Section [59-2-103](#).

456 (d) "Cost percentage" means a fraction, calculated by aircraft type, the numerator of
457 which is the airline's average cost of the aircraft type and the denominator of which is the

458 airline's average cost of the aircraft type:

459 (i) owned or operated by the airline; and

460 (ii) that has the lowest average cost.

461 (e) "Ground hours factor" means the product of:

462 (i) a fraction, the numerator of which is the Utah ground hours calculation and the
463 denominator of which is the airline ground hours calculation; and

464 (ii) .50.

465 (f) (i) Except as provided in Subsection (1)(f)(ii), "mobile flight equipment" is as
466 defined in Section 59-2-102.

467 (ii) "Mobile flight equipment" does not include tangible personal property described in
468 Subsection 59-2-102~~[(27)]~~(28) owned by an:

469 (A) air charter service; or

470 (B) air contract service.

471 (g) "Mobile flight equipment allocation factor" means the sum of:

472 (i) the ground hours factor; and

473 (ii) the revenue ton miles factor.

474 (h) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

475 (i) "Revenue ton miles factor" means the product of:

476 (i) a fraction, the numerator of which is the Utah revenue ton miles and the
477 denominator of which is the airline revenue ton miles; and

478 (ii) .50.

479 (j) "Utah ground hours calculation" means an amount equal to the product of:

480 (i) the total number of hours aircraft owned or operated by an airline are on the ground
481 in this state, calculated by aircraft type; and

482 (ii) the cost percentage.

483 (k) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within
484 the borders of this state:

485 (i) during the calendar year that immediately precedes the January 1 described in
486 Section 59-2-103; and

487 (ii) from flight stages that originate or terminate in this state.

488 (2) For purposes of the assessment of an airline's mobile flight equipment by the

489 commission, a portion of the value of the airline's mobile flight equipment shall be allocated to
490 the state by calculating the product of:

- 491 (a) the total value of the mobile flight equipment; and
492 (b) the mobile flight equipment allocation factor.

493 Section 4. Section **59-2-1115** is amended to read:

494 **59-2-1115. Exemption of certain tangible personal property.**

495 (1) For purposes of this section:

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

498 [~~(ii) includes:]~~

499 [~~(A) the purchase price for a new or used item;]~~

500 [~~(B) the cost of freight and shipping;]~~

501 [~~(C) the cost of installation, engineering, erection, or assembly; and]~~

502 [~~(D) sales and use taxes.]~~

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

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

507 [~~(c)~~] (b) (i) "Taxable tangible personal property" means tangible personal property that
508 is subject to taxation under this chapter.

509 (ii) "Taxable tangible personal property" does not include:

510 (A) tangible personal property required by law to be registered with the state before it
511 is used:

512 (I) on a public highway;

513 (II) on a public waterway;

514 (III) on public land; or

515 (IV) in the air;

516 (B) a mobile home as defined in Section [41-1a-102](#); or

517 (C) a manufactured home as defined in Section [41-1a-102](#).

518 [~~(2) (a) The taxable tangible personal property of a taxpayer is exempt from taxation if~~
519 ~~the taxable tangible personal property has a total aggregate taxable value per county of \$10,000~~

520 or less.]

521 ~~[(b) In addition to the exemption under Subsection (2)(a), an item of taxable tangible~~
522 ~~personal property, except for an item of noncapitalized personal property as defined in Section~~
523 ~~59-2-108, is exempt from taxation if the item of taxable tangible personal property:]~~

524 ~~[(i) has an acquisition cost of \$1,000 or less;]~~

525 ~~[(ii) has reached a percent good of 15% or less according to a personal property~~
526 ~~schedule published by the commission pursuant to Section 59-2-107; and]~~

527 ~~[(iii) is in a personal property schedule with a residual value of 15% or less.]~~

528 (2) The first \$10,000 of the total aggregate taxable value of taxable tangible personal
529 property of a taxpayer per county is exempt from taxation.

530 (3) (a) For calendar years beginning on or after January 1, 2015, the commission shall
531 increase the dollar amount described in Subsection (2)~~[(a)]~~:

532 (i) by a percentage equal to the percentage difference between the consumer price
533 index for the preceding calendar year and the consumer price index for calendar year 2013; and

534 (ii) up to the nearest \$100 increment.

535 (b) For purposes of this Subsection (3), the commission shall calculate the consumer
536 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

537 (c) If the percentage difference under Subsection (3)(a)(i) is zero or a negative
538 percentage, the consumer price index increase for the year is zero.

539 (4) (a) For the first calendar year in which a taxpayer qualifies for an exemption
540 described in Subsection (2), a county assessor may require the taxpayer to file a signed
541 statement described in Section 59-2-306.

542 ~~[(b) Notwithstanding Section 59-2-306 and subject to Subsection (5), for a calendar~~
543 ~~year in which a taxpayer qualifies for an exemption described in Subsection (2) after the~~
544 ~~calendar year described in Subsection (4)(a), a signed statement described in Section 59-2-306~~
545 ~~with respect to the taxable tangible personal property that is exempt under Subsection (2) may~~
546 ~~only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for the~~
547 ~~exemption under Subsection (2).]~~

548 (b) Notwithstanding Section 59-2-306 and subject to Subsection (5), if the taxpayer
549 qualifies for an exemption described in Subsection (2) in the previous calendar year, a county
550 assessor:

551 (i) may not require the taxpayer to set forth all the tangible personal property assessable
552 by the assessor which is owned, possessed, managed, or under the control of the taxpayer in a
553 signed statement described in Section 59-2-306; and

554 (ii) may only require the taxpayer to certify, under penalty of perjury, in a signed
555 statement described in Section 59-2-306 that the taxpayer qualifies for the exemption under
556 Subsection (2).

557 (5) A signed statement with respect to qualifying exempt primary residential rental
558 personal property is as provided in Section 59-2-103.5.

559 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
560 commission may make rules to administer this section and provide for uniform
561 implementation.

562 Section 5. Section 59-7-302 is amended to read:

563 **59-7-302. Definitions -- Determination of taxpayer status.**

564 (1) As used in this part, unless the context otherwise requires:

565 (a) "Aircraft type" means a particular model of aircraft as designated by the
566 manufacturer of the aircraft.

567 (b) "Airline" means the same as that term is defined in Section 59-2-102.

568 (c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during
569 the airline's tax period.

570 (d) "Business income" means income arising from transactions and activity in the
571 regular course of the taxpayer's trade or business and includes income from tangible and
572 intangible property if the acquisition, management, and disposition of the property constitutes
573 integral parts of the taxpayer's regular trade or business operations.

574 (e) "Commercial domicile" means the principal place from which the trade or business
575 of the taxpayer is directed or managed.

576 (f) "Compensation" means wages, salaries, commissions, and any other form of
577 remuneration paid to employees for personal services.

578 (g) (i) Except as provided in Subsection (1)(g)(ii), "mobile flight equipment" means the
579 same as that term is defined in Section 59-2-102.

580 (ii) "Mobile flight equipment" does not include:

581 (A) a spare engine; or

582 (B) tangible personal property described in Subsection 59-2-102[(27)](28) owned by
583 an air charter service or an air contract service.

584 (h) "Nonbusiness income" means all income other than business income.

585 (i) Subject to Subsection (2), "optional sales factor weighted taxpayer" means:

586 (i) for a taxpayer that is not a unitary group, regardless of the number of economic
587 activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales
588 everywhere generated by economic activities performed by the taxpayer if the economic
589 activities are classified in a NAICS code within NAICS Subsector 334, Computer and
590 Electronic Product Manufacturing, of the 2002 or 2007 North American Industry Classification
591 System of the federal Executive Office of the President, Office of Management and Budget; or

592 (ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the
593 taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if
594 the economic activities are classified in a NAICS code within NAICS Subsector 334,
595 Computer and Electronic Product Manufacturing, of the 2002 or 2007 North American
596 Industry Classification System of the federal Executive Office of the President, Office of
597 Management and Budget.

598 (j) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

599 (k) "Sales" means all gross receipts of the taxpayer not allocated under Sections
600 59-7-306 through 59-7-310.

601 (l) Subject to Subsection (2), "sales factor weighted taxpayer" means:

602 (i) for a taxpayer that is not a unitary group, regardless of the number of economic
603 activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales
604 everywhere generated by economic activities performed by the taxpayer if the economic
605 activities are classified in a NAICS code of the 2002 or 2007 North American Industry
606 Classification System of the federal Executive Office of the President, Office of Management
607 and Budget, except for:

608 (A) a NAICS code within NAICS Sector 21, Mining;

609 (B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

610 (C) a NAICS code within NAICS Sector 31-33, Manufacturing, other than NAICS
611 Code 336111, Automobile Manufacturing;

612 (D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

613 (E) a NAICS code within NAICS Sector 51, Information, other than NAICS Subsector
614 519, Other Information Services; or

615 (F) a NAICS code within NAICS Sector 52, Finance and Insurance; or

616 (ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the
617 taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if
618 the economic activities are classified in a NAICS code of the 2002 or 2007 North American
619 Industry Classification System of the federal Executive Office of the President, Office of
620 Management and Budget, except for a NAICS code under Subsections (1)(1)(i)(A) through (F).

621 (m) "State" means any state of the United States, the District of Columbia, the
622 Commonwealth of Puerto Rico, any territory or possession of the United States, and any
623 foreign country or political subdivision thereof.

624 (n) "Transportation revenue" means revenue an airline earns from:

625 (i) transporting a passenger or cargo; or

626 (ii) from miscellaneous sales of merchandise as part of providing transportation
627 services.

628 (o) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within
629 the borders of this state:

630 (i) during the airline's tax period; and

631 (ii) from flight stages that originate or terminate in this state.

632 (2) The following apply to Subsections (1)(i) and (1):

633 (a) (i) Subject to the other provisions of this Subsection (2), for each taxable year, a
634 taxpayer shall determine whether the taxpayer is a sales factor weighted taxpayer.

635 (ii) A taxpayer shall make the determination required by Subsection (2)(a)(i) before the
636 due date for filing the taxpayer's return under this chapter for the taxable year, including
637 extensions.

638 (iii) For purposes of making the determination required by Subsection (2)(a)(i), total
639 sales everywhere include only the total sales everywhere:

640 (A) as determined in accordance with this part; and

641 (B) made during the taxable year for which a taxpayer makes the determination
642 required by Subsection (2)(a)(i).

643 (b) (i) (A) Subject to other provisions of this Subsection (2), for each taxable year, a

644 taxpayer that is not a sales factor weighted taxpayer may determine whether the taxpayer is an
645 optional sales factor weighted taxpayer.

646 (B) A taxpayer that is not a sales factor weighted taxpayer shall determine that the
647 taxpayer is an optional sales factor weighted taxpayer before the taxpayer may use the
648 apportionment options described in Subsection 59-7-311(4).

649 (ii) A taxpayer making the determination described in Subsection (2)(b)(i) shall make
650 the determination before the due date for filing the taxpayer's return under this chapter for the
651 taxable year, including extensions.

652 (iii) For purposes of making the determination described in Subsection (2)(b)(i), total
653 sales everywhere include only the total sales everywhere:

654 (A) as determined in accordance with this part; and

655 (B) made during the taxable year for which a taxpayer makes a determination described
656 in Subsection (2)(b)(i).

657 (c) A taxpayer that files a return as a unitary group for a taxable year is considered to
658 be a unitary group for that taxable year.

659 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
660 commission may define the term "economic activity" consistent with the use of the term
661 "activity" in the 2007 North American Industry Classification System of the federal Executive
662 Office of the President, Office of Management and Budget.

663 Section 6. **Effective date.**

664 This bill takes effect on January 1, 2019.