

# HB0375S01 compared with HB0375

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Inserted text shows text that was not in HB0375 but was inserted into HB0375S01.

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Representative Daniel McCay proposes the following substitute bill:

## PERSONAL PROPERTY TAX REVISIONS

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel McCay**

Senate Sponsor: \_\_\_\_\_

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### 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;
- ▶ ~~{provides a severability clause}~~ 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

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### 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

**59-2-804**, as last amended by Laws of Utah 2014, Chapter 65

**59-2-1115**, as last amended by Laws of Utah 2013, Chapters 19 and 147

**59-7-302**, as last amended by Laws of Utah 2017, Chapters 181 and 268

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

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

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

As used in this chapter and title:

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

(b) "Acquisition cost" includes:

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

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

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

(iv) sales and use taxes.

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

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

~~[(3)]~~ (4) "Air contract service" means an air carrier operation available only to

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customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

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

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

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

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

~~[(7)]~~ (8) "Base parcel" means a parcel of property that was legally:

(a) subdivided into two or more lots, parcels, or other divisions of land; or

(b) (i) combined with one or more other parcels of property; and

(ii) subdivided into two or more lots, parcels, or other divisions of land.

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

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

(ii) the product of:

(A) eligible new growth, as defined in Section 59-2-924; and

(B) the school minimum basic tax rate or multicounty assessing and collecting levy certified by the commission for the previous year.

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

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

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

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

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

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

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

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

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

(c) vehicles that are:

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

(ii) used or licensed as taxicabs or limousines;

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

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

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

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

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

(i) a county; and

(ii) a school district.

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

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

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

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

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

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

(i) \$5,000; or

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

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

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

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

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

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

~~[(13)]~~ (14) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property

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in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

~~[(14)]~~ (15) (a) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

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

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

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

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

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

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

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

(ii) the ability of a business to:

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

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

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

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

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

(c) "Goodwill" does not include:

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

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property,

including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation

of the existing tangible property in place working together as a unit.

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

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities -

Local Districts, the local district's board of trustees;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District

Act:

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

(ii) the administrative control board, to the extent that the county or municipal

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legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

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

(i) "household" means the association of individuals who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

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

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

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

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

(ii) removal of the item would:

(A) cause substantial damage to the item; or

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

(b) "Improvement" includes:

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

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

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

(21)(a); and

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

(c) "Improvement" does not include:

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

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

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



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(B) essential accessories to manufacturing equipment and machinery;

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

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

~~[(21)]~~ (22) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(5).

~~[(22)]~~ (23) "Livestock" means:

(a) a domestic animal;

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- (b) a fish;
- (c) a fur-bearing animal;
- (d) a honeybee; or
- (e) poultry.

~~[(23)]~~ (24) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;

or

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

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

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

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

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

- (i) is capable of flight or is attached to an aircraft that is capable of flight; or
- (ii) is contained in an aircraft that is capable of flight if the tangible personal property

is intended to be used:

- (A) during multiple flights;
- (B) during a takeoff, flight, or landing; and
- (C) as a service provided by an air charter service, air contract service, or airline.

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

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

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

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

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

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

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

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

~~[(31)]~~ (32) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

~~[(32)]~~ (33) "Public utility" means:

(a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and

(b) the operating property of any entity or person defined under Section 54-2-1 except water corporations.

~~[(33)]~~ (34) (a) Subject to Subsection ~~[(33)]~~ (34)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

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

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

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commission may by rule define the term "dwelling unit" for purposes of this Subsection [~~(33)~~ (34)] and Subsection [~~(36)~~ (37)].

[~~(34)~~ (35)] "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

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

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

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

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

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

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

and

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

and

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

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

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

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

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

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- (i) the land surface rights of the property where the wellhead is located; or
- (ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;
- (c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and
- (d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

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

- (i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or
  - (ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.
- (b) "State-assessed commercial vehicle" does not include vehicles used for hire that are specified in Subsection ~~[(9)]~~ (10)(c) as county-assessed commercial vehicles.

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

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

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

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

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

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

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

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

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(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)]~~ (a) (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)]~~ (b) "Noncapitalized personal property" means an item of tangible personal property:

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

(ii) with respect 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)]~~ (c) "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 examined in accordance with Section 59-2-306, 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.

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

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

(1) As used in this section:

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

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

(i) the total number of hours aircraft owned or operated by an airline are on the ground,

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calculated by aircraft type; and

(ii) the cost percentage.

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

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

(i) owned or operated by the airline; and

(ii) that has the lowest average cost.

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

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

(ii) .50.

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

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

(A) air charter service; or

(B) air contract service.

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

(i) the ground hours factor; and

(ii) the revenue ton miles factor.

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

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

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

(ii) .50.

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

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

(ii) the cost percentage.



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

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

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

(2) For purposes of the assessment of an airline's mobile flight equipment by the commission, a portion of the value of the airline's mobile flight equipment shall be allocated to the state by calculating the product of:

(a) the total value of the mobile flight equipment; and

(b) the mobile flight equipment allocation factor.

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

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

(1) For purposes of 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)]~~ (a) (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)]~~ (b) (i) "Taxable tangible personal property" means tangible personal property that is subject to taxation under this chapter.

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

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

(I) on a public highway;

(II) on a public waterway;

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- (III) on public land; or
- (IV) in the air;
- (B) a mobile home as defined in Section 41-1a-102; or
- (C) a manufactured home as defined in Section 41-1a-102.

~~[(2)(a) The taxable tangible personal property of a taxpayer is exempt from taxation if the taxable tangible personal property has a total aggregate taxable value per county of ~~{}~~\$10,000 ~~{}~~\$250,000 or less.]~~

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

~~[(i) has an acquisition cost of ~~{}~~\$1,000 ~~{}~~\$2,500 or less;]~~

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

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

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

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

- (i) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2013; and
- (ii) up to the nearest \$100 increment.

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

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

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

~~[(b) Notwithstanding Section 59-2-306 and subject to Subsection (5), for a calendar year in which a taxpayer qualifies for an exemption described in Subsection (2) ~~{(a) or (b)}~~ after the calendar year described in Subsection (4)(a), a signed statement described in Section~~

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59-2-306 with respect to the taxable tangible personal property that is exempt under Subsection (2) ~~{(a) or (b)}~~ may only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for ~~{the {}} {an}~~ exemption under Subsection (2) ~~{(a) or (b)}~~.

~~†~~

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

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

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

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

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

~~{~~ (7) (a) If any subsection of this section or the application of any subsection to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the invalidity does not affect other provisions or applications of this section that can be given effect without the invalid provision or application.

~~\_\_\_\_\_~~ (b) The provisions of this section are severable.

~~†~~

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

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

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

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

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

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

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

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

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

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

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

(A) a spare engine; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) transporting a passenger or cargo; or

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

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

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

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

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

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

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

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

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

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

(b) (i) (A) Subject to other provisions of this Subsection (2), for each taxable year, a taxpayer that is not a sales factor weighted taxpayer may determine whether the taxpayer is an optional sales factor weighted taxpayer.

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

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

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

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

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

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

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

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Section 6. **Effective date.**

This bill takes effect on January 1, 2019.

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**Legislative Review Note**

**Office of Legislative Research and General Counsel†**