

PROPERTY TAX ASSESSMENT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark A. Strong

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies county assessment provisions of the property tax code.

Highlighted Provisions:

This bill:

- ▶ defines the term "assessment roll" to include an "assessment book";
- ▶ authorizes a county assessor to assess real property and personal property of a multi-tenant residential property using an income approach under certain circumstances;

- ▶ provides circumstances under which a county assessor may exempt an owner from the county's signed statement requirement on personal property located in a multi-tenant residential property; and

- ▶ provides requirements for assessing, collecting, and reporting certain personal property located in a multi-tenant residential property using an income approach.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-102, as last amended by Laws of Utah 2018, Chapters 415 and 456



28 ENACTS:

29 **59-2-301.8**, Utah Code Annotated 1953



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

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

33 **59-2-102. Definitions.**

34 As used in this chapter and title:

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

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

42 (3) "Air contract service" means an air carrier operation available only to customers
43 that engage the services of the carrier through a contractual agreement and excess capacity on
44 any trip and is not available to the public at large.

45 (4) "Aircraft" means the same as that term is defined in Section **72-10-102**.

46 (5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

47 (i) operates:

48 (A) on an interstate route; and

49 (B) on a scheduled basis; and

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

52 (b) "Airline" does not include an:

53 (i) air charter service; or

54 (ii) air contract service.

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

- 59 (7) "Base parcel" means a parcel of property that was legally:
60 (a) subdivided into two or more lots, parcels, or other divisions of land; or
61 (b) (i) combined with one or more other parcels of property; and
62 (ii) subdivided into two or more lots, parcels, or other divisions of land.
- 63 (8) (a) "Certified revenue levy" means a property tax levy that provides an amount of
64 ad valorem property tax revenue equal to the sum of:
65 (i) the amount of ad valorem property tax revenue to be generated statewide in the
66 previous year from imposing a multicounty assessing and collecting levy, as specified in
67 Section 59-2-1602; and
68 (ii) the product of:
69 (A) eligible new growth, as defined in Section 59-2-924; and
70 (B) the multicounty assessing and collecting levy certified by the commission for the
71 previous year.
- 72 (b) For purposes of this Subsection (8), "ad valorem property tax revenue" does not
73 include property tax revenue received by a taxing entity from personal property that is:
74 (i) assessed by a county assessor in accordance with Part 3, County Assessment; and
75 (ii) semiconductor manufacturing equipment.
- 76 (c) For purposes of calculating the certified revenue levy described in this Subsection
77 (8), the commission shall use:
78 (i) the taxable value of real property assessed by a county assessor contained on the
79 assessment roll;
80 (ii) the taxable value of real and personal property assessed by the commission; and
81 (iii) the taxable year end value of personal property assessed by a county assessor
82 contained on the prior year's assessment roll.
- 83 (9) "County-assessed commercial vehicle" means:
84 (a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section
85 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in
86 furtherance of the owner's commercial enterprise;
87 (b) any passenger vehicle owned by a business and used by its employees for
88 transportation as a company car or vanpool vehicle; and
89 (c) vehicles that are:

- 90 (i) especially constructed for towing or wrecking, and that are not otherwise used to
- 91 transport goods, merchandise, or people for compensation;
- 92 (ii) used or licensed as taxicabs or limousines;
- 93 (iii) used as rental passenger cars, travel trailers, or motor homes;
- 94 (iv) used or licensed in this state for use as ambulances or hearses;
- 95 (v) especially designed and used for garbage and rubbish collection; or
- 96 (vi) used exclusively to transport students or their instructors to or from any private,
- 97 public, or religious school or school activities.

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

- 101 (i) a county; and
- 102 (ii) a school district.

103 (b) "Designated tax area" includes a tax area created by the overlapping boundaries of
104 the taxing entities described in Subsection (10)(a) and:

- 105 (i) a city or town if the boundaries of the school district under Subsection (10)(a) and
106 the boundaries of the city or town are identical; or
- 107 (ii) a special service district if the boundaries of the school district under Subsection
108 (10)(a) are located entirely within the special service district.

109 (11) "Eligible judgment" means a final and unappealable judgment or order under
110 Section 59-2-1330:

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

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

- 116 (i) \$5,000; or
- 117 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the
118 previous fiscal year.

119 (12) (a) "Escaped property" means any property, whether personal, land, or any
120 improvements to the property, that is subject to taxation and is:

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

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

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

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

130 (13) "Fair market value" means the amount at which property would change hands
131 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell
132 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
133 market value" shall be determined using the current zoning laws applicable to the property in
134 question, except in cases where there is a reasonable probability of a change in the zoning laws
135 affecting that property in the tax year in question and the change would have an appreciable
136 influence upon the value.

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

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

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

147 (16) "Geothermal resource" means:

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

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

- 152 (17) (a) "Goodwill" means:
- 153 (i) acquired goodwill that is reported as goodwill on the books and records that a
- 154 taxpayer maintains for financial reporting purposes; or
- 155 (ii) the ability of a business to:
- 156 (A) generate income that exceeds a normal rate of return on assets and that results from
- 157 a factor described in Subsection (17)(b); or
- 158 (B) obtain an economic or competitive advantage resulting from a factor described in
- 159 Subsection (17)(b).
- 160 (b) The following factors apply to Subsection (17)(a)(ii):
- 161 (i) superior management skills;
- 162 (ii) reputation;
- 163 (iii) customer relationships;
- 164 (iv) patronage; or
- 165 (v) a factor similar to Subsections (17)(b)(i) through (iv).
- 166 (c) "Goodwill" does not include:
- 167 (i) the intangible property described in Subsection (21)(a) or (b);
- 168 (ii) locational attributes of real property, including:
- 169 (A) zoning;
- 170 (B) location;
- 171 (C) view;
- 172 (D) a geographic feature;
- 173 (E) an easement;
- 174 (F) a covenant;
- 175 (G) proximity to raw materials;
- 176 (H) the condition of surrounding property; or
- 177 (I) proximity to markets;
- 178 (iii) value attributable to the identification of an improvement to real property,
- 179 including:
- 180 (A) reputation of the designer, builder, or architect of the improvement;
- 181 (B) a name given to, or associated with, the improvement; or
- 182 (C) the historic significance of an improvement; or

183 (iv) the enhancement or assemblage value specifically attributable to the interrelation
184 of the existing tangible property in place working together as a unit.

185 (18) "Governing body" means:

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

187 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
188 Local Districts, the local district's board of trustees;

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

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

191 Act:

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

195 (ii) the administrative control board, to the extent that the county or municipal
196 legislative body has delegated authority to an administrative control board established under
197 Section 17D-1-301.

198 (19) (a) For purposes of Section 59-2-103:

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

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

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

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

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

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

211 (ii) removal of the item would:

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

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

214 (b) "Improvement" includes:
215 (i) an accessory to an item described in Subsection (20)(a) if the accessory is:
216 (A) essential to the operation of the item described in Subsection (20)(a); and
217 (B) installed solely to serve the operation of the item described in Subsection (20)(a);
218 and
219 (ii) an item described in Subsection (20)(a) that is temporarily detached from the land
220 for repairs and remains located on the land.
221 (c) "Improvement" does not include:
222 (i) an item considered to be personal property pursuant to rules made in accordance
223 with Section 59-2-107;
224 (ii) a moveable item that is attached to land for stability only or for an obvious
225 temporary purpose;
226 (iii) (A) manufacturing equipment and machinery; or
227 (B) essential accessories to manufacturing equipment and machinery;
228 (iv) an item attached to the land in a manner that facilitates removal without substantial
229 damage to the land or the item; or
230 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
231 transportable factory-built housing unit is considered to be personal property under Section
232 59-2-1503.
233 (21) "Intangible property" means:
234 (a) property that is capable of private ownership separate from tangible property,
235 including:
236 (i) money;
237 (ii) credits;
238 (iii) bonds;
239 (iv) stocks;
240 (v) representative property;
241 (vi) franchises;
242 (vii) licenses;
243 (viii) trade names;
244 (ix) copyrights; and

- 245 (x) patents;
- 246 (b) a low-income housing tax credit;
- 247 (c) goodwill; or
- 248 (d) a renewable energy tax credit or incentive, including:
- 249 (i) a federal renewable energy production tax credit under Section 45, Internal Revenue
- 250 Code;
- 251 (ii) a federal energy credit for qualified renewable electricity production facilities under
- 252 Section 48, Internal Revenue Code;
- 253 (iii) a federal grant for a renewable energy property under American Recovery and
- 254 Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
- 255 (iv) a tax credit under Subsection 59-7-614(5).
- 256 (22) "Livestock" means:
- 257 (a) a domestic animal;
- 258 (b) a fish;
- 259 (c) a fur-bearing animal;
- 260 (d) a honeybee; or
- 261 (e) poultry.
- 262 (23) "Low-income housing tax credit" means:
- 263 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
- 264 or
- 265 (b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.
- 266 (24) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- 267 (25) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
- 268 valuable mineral.
- 269 (26) "Mining" means the process of producing, extracting, leaching, evaporating, or
- 270 otherwise removing a mineral from a mine.
- 271 (27) (a) "Mobile flight equipment" means tangible personal property that is owned or
- 272 operated by an air charter service, air contract service, or airline and:
- 273 (i) is capable of flight or is attached to an aircraft that is capable of flight; or
- 274 (ii) is contained in an aircraft that is capable of flight if the tangible personal property
- 275 is intended to be used:

276 (A) during multiple flights;
277 (B) during a takeoff, flight, or landing; and
278 (C) as a service provided by an air charter service, air contract service, or airline.
279 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
280 engine that is rotated at regular intervals with an engine that is attached to the aircraft.
281 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
282 commission may make rules defining the term "regular intervals."
283 (28) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,
284 sand, rock, gravel, and all carboniferous materials.
285 (29) "Part-year residential property" means property that is not residential property on
286 January 1 of a calendar year but becomes residential property after January 1 of the calendar
287 year.
288 (30) "Personal property" includes:
289 (a) every class of property as defined in Subsection (31) that is the subject of
290 ownership and is not real estate or an improvement;
291 (b) any pipe laid in or affixed to land whether or not the ownership of the pipe is
292 separate from the ownership of the underlying land, even if the pipe meets the definition of an
293 improvement;
294 (c) bridges and ferries;
295 (d) livestock; and
296 (e) outdoor advertising structures as defined in Section [72-7-502](#).
297 (31) (a) "Property" means property that is subject to assessment and taxation according
298 to its value.
299 (b) "Property" does not include intangible property as defined in this section.
300 (32) "Public utility" means:
301 (a) for purposes of this chapter, the operating property of a railroad, gas corporation, oil
302 or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation,
303 telephone corporation, sewerage corporation, or heat corporation where the company performs
304 the service for, or delivers the commodity to, the public generally or companies serving the
305 public generally, or in the case of a gas corporation or an electrical corporation, where the gas
306 or electricity is sold or furnished to any member or consumers within the state for domestic,

307 commercial, or industrial use; and

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

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

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

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

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

317 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
318 commission may by rule define the term "dwelling unit" for purposes of this Subsection (33)
319 and Subsection (36).

320 (34) "Real estate" or "real property" includes:

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

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

325 (c) improvements.

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

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

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

335 (b) Subject to Subsection (36)(c), "residential property":

336 (i) except as provided in Subsection (36)(b)(ii), includes household furnishings,
337 furniture, and equipment if the household furnishings, furniture, and equipment are:

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

339 and

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

341 and

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

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

346 (37) "Split estate mineral rights owner" means a person that:

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

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

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

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

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

354 (d) does not have a relationship with an owner of the land surface rights of the property
355 where the wellhead is located.

356 (38) (a) "State-assessed commercial vehicle" means:

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

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

361 (b) "State-assessed commercial vehicle" does not include vehicles used for hire that are
362 specified in Subsection (9)(c) as county-assessed commercial vehicles.

363 (39) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of
364 a base parcel.

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

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

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

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

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

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

378 **59-2-301.8. Assessment of multi-tenant residential property.**

379 (1) As used in this section, "multi-tenant residential property" means a property that:

380 (a) is rented as multiple separate housing units;

381 (b) meets the definition of residential property, as defined in Section [59-2-102](#); and

382 (c) qualifies for the residential exemption described in Section [59-2-103](#).

383 (2) (a) A county assessor may use an income approach to value real property and
384 personal property of a multi-tenant residential property that are owned by the same person.

385 (b) If a county assessor determines that the income approach captures the fair market
386 value of all the personal property located in a multi-tenant residential property and owned by
387 the owner of the multi-tenant residential property, the county assessor may relieve the owner of
388 any obligation to file the signed statement required by the county under Section [59-2-306](#) for
389 that personal property.

390 (3) For personal property for which an owner is not required to file a signed statement
391 under Subsection (2):

392 (a) (i) the county assessor shall assess the personal property in the same manner as real
393 property under Part 3, County Assessment; and

394 (ii) the county assessor or the county treasurer shall collect the tax on the personal
395 property in the same manner as real property under Part 13, Collection of Taxes;

396 (b) the county assessor is not required to list personal property separately in the
397 assessment roll; and

398 (c) the county auditor is not required to identify personal property separately on the
399 statement to the commission required by Section [59-2-322](#).

400 Section 3. **Retrospective operation.**

401 This bill has retrospective operation to January 1, 2020.