

1 **PRIVILEGE TAX AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

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

5 Senate Sponsor: Curtis S. Bramble

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the privilege tax statute.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ describes exclusive possession as it relates to a privilege tax; and
- 13 ▶ makes technical changes.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 This bill provides for retrospective operation.

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **59-4-101**, as last amended by Laws of Utah 2015, Chapter 199

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

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

24 **59-4-101. Tax basis -- Exceptions -- Assessment and collection.**

25 (1) (a) Except as provided in Subsections (1)(b) [~~and~~], (1)(c), and (3), a tax is imposed
26 on the possession or other beneficial use enjoyed by any person of any real or personal property
27 [~~which~~] that is exempt for any reason [~~is exempt~~] from taxation, if that property is used in
28 connection with a business conducted for profit.

29 (b) Any interest remaining in the state in state lands after subtracting amounts paid or

30 due in part payment of the purchase price as provided in Subsection 59-2-1103(2)(b)(i) under a
31 contract of sale is subject to taxation under this chapter regardless of whether the property is
32 used in connection with a business conducted for profit.

33 (c) The tax imposed under Subsection (1)(a) does not apply to property exempt from
34 taxation under Section 59-2-1114.

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

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

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

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

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

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

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

50 (e) the use or possession of any lease, permit, or easement unless the lease, permit, or
51 easement entitles the lessee or permittee to exclusive possession of the premises to which the
52 lease, permit, or easement relates [~~Every lessee, permittee, or other holder of a right to remove
53 or extract the mineral covered by the holder's lease, right, permit, or easement except from
54 brines of the Great Salt Lake, is considered to be in possession of the premises,
55 notwithstanding the fact that other parties may have a similar right to remove or extract another
56 mineral from the same lands or estates];~~

57 (f) the use or possession of property by a public agency, as defined in Section

58 [11-13-103](#), to the extent that the ownership interest of the public agency in that property is
59 subject to a fee in lieu of ad valorem property tax under Section [11-13-302](#); or

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

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

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

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

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

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

78 Section 2. **Retrospective operation.**

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