

PERSONAL PROPERTY TAXATION REVISIONS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gage Froerer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses the property taxation of personal property.

Highlighted Provisions:

This bill:

- ▶ applies the primary residential exemption to household furnishings, furniture, and equipment used exclusively within a rental primary residential property;
- ▶ increases a property tax exemption for personal property;
- ▶ repeals a consumer price index adjustment for purposes of the property tax exemption for personal property;
- ▶ provides that a signed statement submitted to a county assessor may only contain certain information under certain circumstances;
- ▶ addresses property tax exemption, abatement, and deferral provisions relative to the primary residential exemption; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill ~~H→ [has retrospective operation to]~~ takes effect on ~~←H~~ January 1, ~~H→ [2013]~~ 2014 ~~←H~~ .

Utah Code Sections Affected:

AMENDS:



- 28 **59-2-102**, as last amended by Laws of Utah 2012, Chapter 240
- 29 **59-2-103.5**, as last amended by Laws of Utah 2011, Chapter 410
- 30 **59-2-1105**, as last amended by Laws of Utah 2012, Chapter 92
- 31 **59-2-1108**, as last amended by Laws of Utah 2007, Chapter 306
- 32 **59-2-1109**, as last amended by Laws of Utah 2011, Chapter 366
- 33 **59-2-1115**, as last amended by Laws of Utah 2012, Chapter 313

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

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

37 **59-2-102. Definitions.**

38 As used in this chapter and title:

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

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

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

49 (4) "Aircraft" is as defined in Section 72-10-102.

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

51 (i) operates:

52 (A) on an interstate route; and

53 (B) on a scheduled basis; and

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

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

57 (i) air charter service; or

58 (ii) air contract service.

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

63 (7) (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 school minimum basic tax rate, as specified in Subsection
67 53A-17a-135(1)(a), or multicounty assessing and collecting levy, as specified in Section
68 59-2-1602; and

69 (ii) the product of:

70 (A) new growth, as defined in:

71 (I) Section 59-2-924; and

72 (II) rules of the commission; and

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

75 (b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not
76 include property tax revenue received by a taxing entity from personal property that is:

77 (i) assessed by a county assessor in accordance with Part 3, County Assessment; and

78 (ii) semiconductor manufacturing equipment.

79 (c) For purposes of calculating the certified revenue levy described in this Subsection
80 (7), the commission shall use:

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

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

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

86 (8) "County-assessed commercial vehicle" means:

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

- 90 (b) any passenger vehicle owned by a business and used by its employees for
- 91 transportation as a company car or vanpool vehicle; and
- 92 (c) vehicles which are:
 - 93 (i) especially constructed for towing or wrecking, and which are not otherwise used to
 - 94 transport goods, merchandise, or people for compensation;
 - 95 (ii) used or licensed as taxicabs or limousines;
 - 96 (iii) used as rental passenger cars, travel trailers, or motor homes;
 - 97 (iv) used or licensed in this state for use as ambulances or hearses;
 - 98 (v) especially designed and used for garbage and rubbish collection; or
 - 99 (vi) used exclusively to transport students or their instructors to or from any private,
 - 100 public, or religious school or school activities.

101 (9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801,
102 "designated tax area" means a tax area created by the overlapping boundaries of only the
103 following taxing entities:

- 104 (i) a county; and
 - 105 (ii) a school district.
- 106 (b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created
107 by the overlapping boundaries of:
- 108 (i) the taxing entities described in Subsection (9)(a); and
 - 109 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a)
110 and the boundaries of the city or town are identical; or
 - 111 (B) a special service district if the boundaries of the school district under Subsection
112 (9)(a) are located entirely within the special service district.

113 (10) "Eligible judgment" means a final and unappealable judgment or order under
114 Section 59-2-1330:

- 115 (a) that became a final and unappealable judgment or order no more than 14 months
116 prior to the day on which the notice required by Section 59-2-919.1 is required to be mailed;
117 and
- 118 (b) for which a taxing entity's share of the final and unappealable judgment or order is
119 greater than or equal to the lesser of:
 - 120 (i) \$5,000; or

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

123 (11) (a) "Escaped property" means any property, whether personal, land, or any
124 improvements to the property, subject to taxation and is:

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

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

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

131 (b) Property which is undervalued because of the use of a different valuation
132 methodology or because of a different application of the same valuation methodology is not
133 "escaped property."

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

141 (13) "Farm machinery and equipment," for purposes of the exemption provided under
142 Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed
143 handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage
144 tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery or
145 equipment used primarily for agricultural purposes; but does not include vehicles required to be
146 registered with the Motor Vehicle Division or vehicles or other equipment used for business
147 purposes other than farming.

148 (14) "Geothermal fluid" means water in any form at temperatures greater than 120
149 degrees centigrade naturally present in a geothermal system.

150 (15) "Geothermal resource" means:

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

152 and

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

155 (16) (a) "Goodwill" means:

156 (i) acquired goodwill that is reported as goodwill on the books and records:

157 (A) of a taxpayer; and

158 (B) that are maintained for financial reporting purposes; or

159 (ii) the ability of a business to:

160 (A) generate income:

161 (I) that exceeds a normal rate of return on assets; and

162 (II) resulting from a factor described in Subsection (16)(b); or

163 (B) obtain an economic or competitive advantage resulting from a factor described in

164 Subsection (16)(b).

165 (b) The following factors apply to Subsection (16)(a)(ii):

166 (i) superior management skills;

167 (ii) reputation;

168 (iii) customer relationships;

169 (iv) patronage; or

170 (v) a factor similar to Subsections (16)(b)(i) through (iv).

171 (c) "Goodwill" does not include:

172 (i) the intangible property described in Subsection (20)(a) or (b);

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

174 (A) zoning;

175 (B) location;

176 (C) view;

177 (D) a geographic feature;

178 (E) an easement;

179 (F) a covenant;

180 (G) proximity to raw materials;

181 (H) the condition of surrounding property; or

182 (I) proximity to markets;

183 (iii) value attributable to the identification of an improvement to real property,
184 including:
185 (A) reputation of the designer, builder, or architect of the improvement;
186 (B) a name given to, or associated with, the improvement; or
187 (C) the historic significance of an improvement; or
188 (iv) the enhancement or assemblage value specifically attributable to the interrelation
189 of the existing tangible property in place working together as a unit.

190 (17) "Governing body" means:
191 (a) for a county, city, or town, the legislative body of the county, city, or town;
192 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
193 Local Districts, the local district's board of trustees;
194 (c) for a school district, the local board of education; or
195 (d) for a special service district under Title 17D, Chapter 1, Special Service District
196 Act:

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

203 (18) (a) For purposes of Section 59-2-103:
204 (i) "household" means the association of persons who live in the same dwelling,
205 sharing its furnishings, facilities, accommodations, and expenses; and
206 (ii) "household" includes married individuals, who are not legally separated, that have
207 established domiciles at separate locations within the state.

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

210 (19) (a) Except as provided in Subsection (19)(c), "improvement" means a building,
211 structure, fixture, fence, or other item that is permanently attached to land, regardless of
212 whether the title has been acquired to the land, if:

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

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

216 (ii) removal of the item would:

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

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

219 (b) "Improvement" includes:

220 (i) an accessory to an item described in Subsection (19)(a) if the accessory is:

221 (A) essential to the operation of the item described in Subsection (19)(a); and

222 (B) installed solely to serve the operation of the item described in Subsection (19)(a);

223 and

224 (ii) an item described in Subsection (19)(a) that:

225 (A) is temporarily detached from the land for repairs; and

226 (B) remains located on the land.

227 (c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:

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

230 (ii) a moveable item that is attached to land:

231 (A) for stability only; or

232 (B) for an obvious temporary purpose;

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

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

235 (iv) an item attached to the land in a manner that facilitates removal without substantial
236 damage to:

237 (A) the land; or

238 (B) the item; or

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

242 (20) "Intangible property" means:

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

- 245 (i) money;
- 246 (ii) credits;
- 247 (iii) bonds;
- 248 (iv) stocks;
- 249 (v) representative property;
- 250 (vi) franchises;
- 251 (vii) licenses;
- 252 (viii) trade names;
- 253 (ix) copyrights; and
- 254 (x) patents;
- 255 (b) a low-income housing tax credit;
- 256 (c) goodwill; or
- 257 (d) a renewable energy tax credit or incentive, including:
 - 258 (i) a federal renewable energy production tax credit under Section 45, Internal Revenue
 - 259 Code;
 - 260 (ii) a federal energy credit for qualified renewable electricity production facilities under
 - 261 Section 48, Internal Revenue Code;
 - 262 (iii) a federal grant for a renewable energy property under American Recovery and
 - 263 Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
 - 264 (iv) a tax credit under Subsection 59-7-614(2)(c).
- 265 (21) "Low-income housing tax credit" means:
 - 266 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
 - 267 or
 - 268 (b) a low-income housing tax credit under:
 - 269 (i) Section 59-7-607; or
 - 270 (ii) Section 59-10-1010.
- 271 (22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- 272 (23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
- 273 valuable mineral.
- 274 (24) "Mining" means the process of producing, extracting, leaching, evaporating, or
- 275 otherwise removing a mineral from a mine.

- 276 (25) (a) "Mobile flight equipment" means tangible personal property that is:
277 (i) owned or operated by an:
278 (A) air charter service;
279 (B) air contract service; or
280 (C) airline; and
281 (ii) (A) capable of flight;
282 (B) attached to an aircraft that is capable of flight; or
283 (C) contained in an aircraft that is capable of flight if the tangible personal property is
284 intended to be used:
285 (I) during multiple flights;
286 (II) during a takeoff, flight, or landing; and
287 (III) as a service provided by an air charter service, air contract service, or airline.
288 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
289 engine that is rotated:
290 (A) at regular intervals; and
291 (B) 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 (26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,
295 sand, rock, gravel, and all carboniferous materials.
296 (27) "Personal property" includes:
297 (a) every class of property as defined in Subsection (28) which is the subject of
298 ownership and not included within the meaning of the terms "real estate" and "improvements";
299 (b) gas and water mains and pipes laid in roads, streets, or alleys;
300 (c) bridges and ferries;
301 (d) livestock which, for the purposes of the exemption provided under Section
302 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and
303 (e) outdoor advertising structures as defined in Section 72-7-502.
304 (28) (a) "Property" means property that is subject to assessment and taxation according
305 to its value.
306 (b) "Property" does not include intangible property as defined in this section.

307 (29) "Public utility," for purposes of this chapter, means the operating property of a
 308 railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
 309 company, electrical corporation, telephone corporation, sewerage corporation, or heat
 310 corporation where the company performs the service for, or delivers the commodity to, the
 311 public generally or companies serving the public generally, or in the case of a gas corporation
 312 or an electrical corporation, where the gas or electricity is sold or furnished to any member or
 313 consumers within the state for domestic, commercial, or industrial use. Public utility also
 314 means the operating property of any entity or person defined under Section 54-2-1 except water
 315 corporations.

316 (30) (a) Subject to Subsection (30)(b), "qualifying exempt primary residential rental
 317 personal property" means household furnishings, furniture, and equipment that:

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

318a **H→ (ii) are owned by the owner of the dwelling unit that is the primary residence**
 318b **of a tenant ; ←H**

319 and

320 **H→ [(iii)] (iii) ←H after applying the residential exemption described in Section 59-2-103,**
 320a **are exempt**
 321 **from taxation under this chapter in accordance with Subsection 59-2-1115(2).**

322 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 323 commission may by rule define the term "dwelling unit" for purposes of this Subsection (30)
 324 and Subsection (32).

325 ~~[(30)]~~ (31) "Real estate" or "real property" includes:

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

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

330 (c) improvements.

331 ~~[(31)]~~ (32) (a) Subject to Subsection (32)(b), "residential property," for the purposes of
 332 the reductions and adjustments under this chapter, means any property used for residential
 333 purposes as a primary residence. [H]

334 (b) Subject to Subsection (32)(c), "residential property":

335 (i) except as provided in Subsection (32)(b)(ii), includes household furnishings,
 336 furniture, and equipment if the household furnishings, furniture, and equipment are H→ :

336a **(A) ←H used**

337 **exclusively within a dwelling unit that is the primary residence of a tenant; and**

337a **H→ (B) owned by the owner of the dwelling unit that is the primary residence**
 337b **of a tenant; and ←H**

338 (ii) does not include property used for transient residential use or condominiums used
339 in rental pools.

340 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
341 commission may by rule define the term "dwelling unit" for purposes of Subsection (30) and
342 this Subsection (32).

343 [~~32~~] (33) (a) "State-assessed commercial vehicle" means:

344 (i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate
345 to transport passengers, freight, merchandise, or other property for hire; or

346 (ii) any commercial vehicle, trailer, or semitrailer which operates interstate and
347 transports the vehicle owner's goods or property in furtherance of the owner's commercial
348 enterprise.

349 (b) "State-assessed commercial vehicle" does not include vehicles used for hire which
350 are specified in Subsection (8)(c) as county-assessed commercial vehicles.

351 [~~33~~] (34) "Taxable value" means fair market value less any applicable reduction
352 allowed for residential property under Section 59-2-103.

353 [~~34~~] (35) "Tax area" means a geographic area created by the overlapping boundaries
354 of one or more taxing entities.

355 [~~35~~] (36) "Taxing entity" means any county, city, town, school district, special taxing
356 district, local district under Title 17B, Limited Purpose Local Government Entities - Local
357 Districts, or other political subdivision of the state with the authority to levy a tax on property.

358 [~~36~~] (37) "Tax roll" means a permanent record of the taxes charged on property, as
359 extended on the assessment roll and may be maintained on the same record or records as the
360 assessment roll or may be maintained on a separate record properly indexed to the assessment
361 roll. It includes tax books, tax lists, and other similar materials.

362 Section 2. Section **59-2-103.5** is amended to read:

363 **59-2-103.5. Procedures to obtain an exemption for residential property --**
364 **Procedure if property owner or property no longer qualifies to receive a residential**
365 **exemption.**

366 (1) Subject to the other provisions of this section, a county legislative body may by
367 ordinance require that in order for residential property to be allowed a residential exemption in
368 accordance with Section 59-2-103, an owner of the residential property shall file with the

369 county board of equalization a statement:

- 370 (a) on a form prescribed by the commission by rule;
- 371 (b) signed by all of the owners of the residential property;
- 372 (c) certifying that the residential property is residential property; and
- 373 (d) containing other information as required by the commission by rule.

374 (2) (a) Subject to Section 59-2-103 and except as provided in Subsection (3), a county
375 board of equalization shall allow an owner described in Subsection (1) a residential exemption
376 for the residential property described in Subsection (1) if:

- 377 (i) the county legislative body enacts the ordinance described in Subsection (1); and
- 378 (ii) the county board of equalization determines that the requirements of Subsection (1)
379 are met.

380 (b) A county board of equalization may require an owner of the residential property
381 described in Subsection (1) to file the statement described in Subsection (1) only if:

- 382 (i) that residential property was ineligible for the residential exemption authorized
383 under Section 59-2-103 during the calendar year immediately preceding the calendar year for
384 which the owner is seeking to claim the residential exemption for that residential property;
- 385 (ii) an ownership interest in that residential property changes; or
- 386 (iii) the county board of equalization determines that there is reason to believe that that
387 residential property no longer qualifies for the residential exemption in accordance with
388 Section 59-2-103.

389 (3) Notwithstanding Subsection (2)(a), if a county legislative body does not enact an
390 ordinance requiring an owner to file a statement in accordance with this section, the county
391 board of equalization:

- 392 (a) may not require an owner to file a statement for residential property to be eligible
393 for a residential exemption in accordance with Section 59-2-103; and
- 394 (b) shall allow a residential exemption for residential property in accordance with
395 Section 59-2-103.

396 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
397 the commission shall make rules providing:

- 398 (i) the form for the statement described in Subsection (1); and
- 399 (ii) the contents of the form for the statement described in Subsection (1).

400 (b) The commission shall make the form described in Subsection (4)(a) available to
401 counties.

402 (5) Except as provided in Subsection (6), if a property owner no longer qualifies to
403 receive a residential exemption authorized under Section 59-2-103 for that property owner's
404 primary residence, the property owner shall:

405 (a) file a written statement with the county board of equalization of the county in which
406 the property is located:

407 (i) on a form provided by the county board of equalization; and

408 (ii) notifying the county board of equalization that the property owner no longer
409 qualifies to receive a residential exemption authorized under Section 59-2-103 for that property
410 owner's primary residence; and

411 (b) declare on the property owner's individual income tax return under Chapter 10,
412 Individual Income Tax Act, for the taxable year for which the property owner no longer
413 qualifies to receive a residential exemption authorized under Section 59-2-103 for that property
414 owner's primary residence, that the property owner no longer qualifies to receive a residential
415 exemption authorized under Section 59-2-103 for that property owner's primary residence.

416 (6) A property owner is not required to file a written statement or make the declaration
417 described in Subsection (5) if the property owner:

418 (a) changes primary residences;

419 (b) qualified to receive a residential exemption authorized under Section 59-2-103 for
420 the residence that was the property owner's former primary residence; and

421 (c) qualifies to receive a residential exemption authorized under Section 59-2-103 for
422 the residence that is the property owner's current primary residence.

423 (7) (a) Subsections (2) through (6) do not apply to qualifying exempt primary
424 residential rental personal property.

425 (b) For a calendar year in which a taxpayer qualifies for an exemption described in
426 Subsection 59-2-1115(2) for qualifying exempt primary residential rental personal property, a
427 signed statement described in Section 59-2-306 with respect to the qualifying exempt primary
428 residential rental personal property may only require the taxpayer to certify, under penalty of
429 perjury, that the taxpayer qualifies for the exemption under Subsection 59-2-1115(2).

430 Section 3. Section **59-2-1105** is amended to read:

431 **59-2-1105. Application for United States Armed Forces exemption -- Rulemaking**
432 **authority -- Statement -- County authority to make refunds.**

433 (1) (a) Except as provided in Subsection 59-2-1101(2)(c), an exemption under Section
434 59-2-1104 may be allowed only if the interest of the claimant is on record on January 1 of the
435 year the exemption is claimed.

436 (b) If the claimant has an interest in real property under a contract, the exemption under
437 Section 59-2-1104 may be allowed if it is proved to the satisfaction of the county that the
438 claimant is:

439 (i) the purchaser under the contract; and

440 (ii) obligated to pay the taxes on the property beginning January 1 of the year the
441 exemption is claimed.

442 (c) If the claimant is the grantor of a trust holding title to real or tangible personal
443 property on which an exemption under Section 59-2-1104 is claimed, the claimant may claim
444 the portion of the exemption under Section 59-2-1104 and be treated as the owner of that
445 portion of the property held in trust for which the claimant proves to the satisfaction of the
446 county that:

447 (i) title to the portion of the trust will revert in the claimant upon the exercise of a
448 power:

449 (A) by:

450 (I) the claimant as grantor of the trust;

451 (II) a nonadverse party; or

452 (III) both the claimant and a nonadverse party; and

453 (B) regardless of whether the power is a power:

454 (I) to revoke;

455 (II) to terminate;

456 (III) to alter;

457 (IV) to amend; or

458 (V) to appoint;

459 (ii) the claimant is obligated to pay the taxes on that portion of the trust property
460 beginning January 1 of the year the claimant claims the exemption; and

461 (iii) the claimant meets the requirements under this part for the exemption.

462 (2) (a) (i) A claimant applying for an exemption under Section 59-2-1104 shall file an
463 application:

464 (A) with the county in which that claimant resides; and

465 (B) except as provided in Subsection (2)(b) or (e), on or before September 1 of the year
466 in which that claimant is applying for the exemption in accordance with this section.

467 (ii) A county shall provide a claimant who files an application for an exemption in
468 accordance with this section with a receipt:

469 (A) stating that the county received the claimant's application; and

470 (B) no later than 30 days after the day on which the claimant filed the application in
471 accordance with this section.

472 (b) Notwithstanding Subsection (2)(a)(i)(B) or (2)(e):

473 (i) subject to Subsection (2)(b)(iv), for a claimant who applies for an exemption under
474 Section 59-2-1104 on or after January 1, 2004, a county shall extend the deadline for filing the
475 application required by Subsection (2)(a) to September 1 of the year after the year the claimant
476 would otherwise be required to file the application under Subsection (2)(a)(i)(B) if:

477 (A) on or after January 1, 2004, a military entity issues a written decision that the:

478 (I) veteran has a disability; or

479 (II) deceased veteran with a disability with respect to whom the claimant applies for a
480 veteran's exemption had a disability at the time the deceased veteran with a disability died; and

481 (B) the date the written decision described in Subsection (2)(b)(i)(A) takes effect is in
482 any year prior to the current calendar year;

483 (ii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for an
484 exemption under Section 59-2-1104 on or after January 1, 2004, a county shall allow the
485 claimant to amend the application required by Subsection (2)(a) on or before September 1 of
486 the year after the year the claimant filed the application under Subsection (2)(a)(i)(B) if:

487 (A) on or after January 1, 2004, a military entity issues a written decision that the
488 percentage of disability has changed for the:

489 (I) veteran with a disability; or

490 (II) deceased veteran with a disability with respect to whom the claimant applies for the
491 exemption; and

492 (B) the date the written decision described in Subsection (2)(b)(ii)(A) takes effect is in

493 any year prior to the current calendar year;

494 (iii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for an
495 exemption under Section 59-2-1104 on or after January 1, 2004, a county shall extend the
496 deadline for filing the application required by Subsection (2)(a) to September 1 of the year after
497 the year the claimant would otherwise be required to file the application under Subsection
498 (2)(a)(i)(B) if the county legislative body determines that:

499 (A) the claimant or a member of the claimant's immediate family had an illness or
500 injury that prevented the claimant from filing the application on or before the deadline for
501 filing the application established in Subsection (2)(a)(i)(B);

502 (B) a member of the claimant's immediate family died during the calendar year the
503 claimant was required to file the application under Subsection (2)(a)(i)(B);

504 (C) the claimant was not physically present in the state for a time period of at least six
505 consecutive months during the calendar year the claimant was required to file the application
506 under Subsection (2)(a)(i)(B); or

507 (D) the failure of the claimant to file the application on or before the deadline for filing
508 the application established in Subsection (2)(a)(i)(B):

509 (I) would be against equity or good conscience; and

510 (II) was beyond the reasonable control of the claimant; and

511 (iv) a county may extend the deadline for filing an application or amending an
512 application under this Subsection (2) until December 31 if the county finds that good cause
513 exists to extend the deadline.

514 (c) The following shall accompany the initial application for an exemption under
515 Section 59-2-1104:

516 (i) a copy of the veteran's certificate of discharge from military service; or

517 (ii) other satisfactory evidence of eligible military service, including orders for
518 qualifying active duty military service, if applicable.

519 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
520 commission may by rule:

521 (i) establish procedures and requirements for amending an application under
522 Subsection (2)(b)(ii);

523 (ii) for purposes of Subsection (2)(b)(iii), define the terms:

524 (A) "immediate family"; or
525 (B) "physically present"; or
526 (iii) for purposes of Subsection (2)(b)(iii), prescribe the circumstances under which the
527 failure of a claimant to file an application on or before the deadline for filing the application
528 established in Subsection (2)(a)(i)(B):
529 (A) would be against equity or good conscience; and
530 (B) is beyond the reasonable control of a claimant.
531 (e) Except as provided in Subsection (2)(g), if a claimant has on file with the county
532 the application described in Subsection (2)(a), the county may not require the claimant to file
533 another application described in Subsection (2)(a) unless:
534 (i) the claimant applies all or a portion of an exemption under Section 59-2-1104 to any
535 tangible personal property;
536 (ii) the percentage of disability has changed for the:
537 (A) veteran with a disability; or
538 (B) deceased veteran with a disability with respect to whom a claimant applies for a
539 veteran's exemption under this section;
540 (iii) the veteran with a disability dies;
541 (iv) the claimant's ownership interest in the claimant's primary residence changes;
542 (v) the claimant's occupancy of the primary residence for which the claimant claims an
543 exemption under Section 59-2-1104 changes; or
544 (vi) the claimant who files an application for an exemption under Section 59-2-1104
545 with respect to a deceased veteran with a disability or veteran who was killed in action or died
546 in the line of duty is a person other than the claimant who filed the application described in
547 Subsection (2)(a) for the exemption:
548 (A) for the calendar year immediately preceding the current calendar year; and
549 (B) with respect to that deceased veteran with a disability or veteran who was killed in
550 action or died in the line of duty.
551 (f) The county may verify that the real property that is residential property for which
552 the claimant claims an exemption under Section 59-2-1104 is the claimant's primary residence.
553 (g) A member of an active component of the United States Armed Forces or reserve
554 component of the United States Armed Forces who performed qualifying active duty military

555 service shall:

556 (i) file the application described in Subsection (2)(a) in the year after the year during
557 which the member completes the qualifying active duty military service; and

558 (ii) if the member meets the requirements of Section 59-2-1104 and this section to
559 receive an exemption under Section 59-2-1104, claim one exemption only in the year the
560 member files the application described in Subsection (2)(g)(i).

561 (3) (a) (i) Subject to Subsection (3)(a)(ii), a claimant except for a claimant described in
562 Subsection (2)(g) who files an application for an exemption under Section 59-2-1104 shall
563 have on file with the county a statement:

564 (A) issued by a military entity; and

565 (B) listing the percentage of disability for the veteran with a disability or deceased
566 veteran with a disability with respect to whom a claimant applies for the exemption.

567 (ii) If a claimant except for a claimant described in Subsection (2)(g) has on file with
568 the county the statement described in Subsection (3)(a)(i), the county may not require the
569 claimant to file another statement described in Subsection (3)(a)(i) unless:

570 (A) the claimant who files an application under this section for an exemption under
571 Section 59-2-1104 with respect to a deceased veteran with a disability or veteran who was
572 killed in action or died in the line of duty is a person other than the claimant who filed the
573 statement described in Subsection (3)(a)(i) for the exemption:

574 (I) for the calendar year immediately preceding the current calendar year; and

575 (II) with respect to that deceased veteran with a disability or veteran who was killed in
576 action or died in the line of duty; or

577 (B) the percentage of disability has changed for a:

578 (I) veteran with a disability; or

579 (II) deceased veteran with a disability with respect to whom the claimant applies for an
580 exemption under Section 59-2-1104.

581 (b) For a claimant filing an application in accordance with Subsection (2)(b)(i), the
582 claimant shall include with the application required by Subsection (2) a statement issued by a
583 military entity listing the date the written decision described in Subsection (2)(b)(i)(A) takes
584 effect.

585 (c) For a claimant amending an application in accordance with Subsection (2)(b)(ii),

586 the claimant shall provide to the county a statement issued by a military entity listing the date
587 the written decision described in Subsection (2)(b)(ii)(A) takes effect.

588 (4) (a) For purposes of this Subsection (4):

589 (i) "Property taxes due" means the taxes due on a claimant's property:

590 (A) for which an exemption under Section 59-2-1104 is granted by a county; and

591 (B) for the calendar year for which the exemption is granted.

592 (ii) "Property taxes paid" is an amount equal to the sum of:

593 (A) the amount of the property taxes the claimant paid for the calendar year for which

594 the claimant is applying for an exemption under Section 59-2-1104; and

595 (B) the exemption the county granted for the calendar year described in Subsection

596 (4)(a)(ii)(A).

597 (b) A county granting an exemption under Section 59-2-1104 to a claimant shall refund

598 to that claimant an amount equal to the amount by which the claimant's property taxes paid

599 exceed the claimant's property taxes due, if that amount is \$1 or more.

600 Section 4. Section **59-2-1108** is amended to read:

601 **59-2-1108. Indigent persons -- Deferral of taxes -- Interest rate -- Treatment of**
602 **deferred taxes.**

603 (1) (a) The county may, after giving notice, defer any tax levied on real property that is
604 residential property, subject to the conditions of Section 59-2-1109.

605 (b) If the owner of the property described in Subsection (1)(a) is poor, the property may
606 not be subjected to a tax sale during the period of deferment.

607 (2) (a) Taxes deferred by the county accumulate with interest as a lien against the
608 property until the property is sold or otherwise disposed of.

609 (b) Deferred taxes under this section:

610 (i) bear interest at an interest rate equal to the lesser of:

611 (A) 6%; or

612 (B) the federal funds rate target:

613 (I) established by the Federal Open Markets Committee; and

614 (II) that exists on the January 1 immediately preceding the day on which the taxes are
615 deferred; and

616 (ii) have the same status as a lien under Sections 59-2-1301 and 59-2-1325.

- 617 (3) Deferral may be granted by the county at any time if:
- 618 (a) the holder of any mortgage or trust deed outstanding on the property gives written
- 619 approval of the application; and
- 620 (b) the applicant is not the owner of income producing assets that could be liquidated
- 621 to pay the tax.
- 622 (4) Any assets transferred to relatives in the prior three-year period shall be considered
- 623 by the county in making the county's determination.

624 Section 5. Section **59-2-1109** is amended to read:

625 **59-2-1109. Indigent persons -- Deferral or abatement -- Application -- County**
626 **authority to make refunds.**

- 627 (1) A person under the age of 65 years is not eligible for a deferral or abatement
- 628 provided for poor people under Sections 59-2-1107 and 59-2-1108 unless:
- 629 (a) the county finds that extreme hardship would prevail if the grants were not made; or
- 630 (b) the person has a disability.
- 631 (2) (a) An application for the deferral or abatement shall be filed on or before
- 632 September 1 with the county in which the property is located.
- 633 (b) The application shall include a signed statement setting forth the eligibility of the
- 634 applicant for the deferral or abatement.
- 635 (c) Both husband and wife shall sign the application if the husband and wife seek a
- 636 deferral or abatement on a residence:
- 637 (i) in which they both reside; and
- 638 (ii) which they own as joint tenants.
- 639 (d) A county may extend the deadline for filing under Subsection (2)(a) until December
- 640 31 if the county finds that good cause exists to extend the deadline.
- 641 (3) (a) For purposes of this Subsection (3):
- 642 (i) "Property taxes due" means the taxes due on a person's property:
- 643 (A) for which an abatement is granted by a county under Section 59-2-1107; and
- 644 (B) for the calendar year for which the abatement is granted.
- 645 (ii) "Property taxes paid" is an amount equal to the sum of:
- 646 (A) the amount of the property taxes the person paid for the taxable year for which the
- 647 person is applying for the abatement; and

648 (B) the amount of the abatement the county grants under Section 59-2-1107.
649 (b) A county granting an abatement to a person under Section 59-2-1107 shall refund
650 to that person an amount equal to the amount by which the person's property taxes paid exceed
651 the person's property taxes due, if that amount is \$1 or more.

652 (4) For purposes of this section:
653 (a) a poor person is any person:
654 (i) whose total household income as defined in Section 59-2-1202 is less than the
655 maximum household income certified to a homeowner's credit under Subsection 59-2-1208(1);
656 (ii) who resides for not less than 10 months of each year in the residence for which the
657 tax relief, deferral, or abatement is requested; and
658 (iii) who is unable to meet the tax assessed on the person's real property that is
659 residential property as the tax becomes due; and

660 (b) "residence" includes a mobile home as defined under Section 70D-2-401.

661 (5) If the claimant is the grantor of a trust holding title to real or tangible personal
662 property on which an abatement or deferral is claimed, the claimant may claim the portion of
663 the abatement or deferral under Section 59-2-1107 or 59-2-1108 and be treated as the owner of
664 that portion of the property held in trust for which the claimant proves to the satisfaction of the
665 county that:
666 (a) title to the portion of the trust will revert in the claimant upon the exercise of a
667 power:
668 (i) by:
669 (A) the claimant as grantor of the trust;
670 (B) a nonadverse party; or
671 (C) both the claimant and a nonadverse party; and
672 (ii) regardless of whether the power is a power:
673 (A) to revoke;
674 (B) to terminate;
675 (C) to alter;
676 (D) to amend; or
677 (E) to appoint;
678 (b) the claimant is obligated to pay the taxes on that portion of the trust property

679 beginning January 1 of the year the claimant claims the abatement or deferral; and
680 (c) the claimant meets the requirements under this part for the abatement or deferral.

681 (6) The commission shall adopt rules to implement this section.

682 (7) Any poor person may qualify for:

683 (a) the deferral of taxes under Section 59-2-1108;

684 (b) if the person meets the requisites of this section, for the abatement of taxes under
685 Section 59-2-1107; or

686 (c) both:

687 (i) the deferral described in Subsection (7)(a); and

688 (ii) the abatement described in Subsection (7)(b).

689 Section 6. Section **59-2-1115** is amended to read:

690 **59-2-1115. Exemption of certain tangible personal property.**

691 (1) For purposes of this section:

692 (a) (i) "Acquisition cost" means all costs required to put an item of tangible personal
693 property into service; and

694 (ii) includes:

695 (A) the purchase price for a new or used item;

696 (B) the cost of freight and shipping;

697 (C) the cost of installation, engineering, erection, or assembly; and

698 (D) sales and use taxes.

699 (b) (i) "Item of taxable tangible personal property" does not include an improvement to
700 real property or a part that will become an improvement.

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

703 (c) (i) "Taxable tangible personal property" means tangible personal property that is
704 subject to taxation under this chapter.

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

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

708 (I) on a public highway;

709 (II) on a public waterway;

710 (III) on public land; or

711 (IV) in the air;

712 (B) a mobile home as defined in Section 41-1a-102; or

713 (C) a manufactured home as defined in Section 41-1a-102.

714 (2) (a) The taxable tangible personal property of a taxpayer is exempt from taxation if
715 the taxable tangible personal property has a total aggregate [~~fair market~~] taxable value per
716 county of [~~\$3,500~~] \$10,000 or less.

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

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

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

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

724 [~~(3)(a) For calendar years beginning on or after January 1, 2008, the commission shall~~
725 ~~increase the dollar amount described in Subsection (2)(a):]~~

726 [~~(i) by a percentage equal to the percentage difference between the consumer price~~
727 ~~index for the preceding calendar year and the consumer price index for calendar year 2006;~~
728 ~~and]~~

729 [~~(ii) up to the nearest \$100 increment.]~~

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

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

734 (3) Notwithstanding Section 59-2-306 and subject to Subsection (4), for a calendar
735 year in which a taxpayer qualifies for an exemption described in Subsection (2), a signed
736 statement described in Section 59-2-306 with respect to the taxable tangible personal property
737 that is exempt under Subsection (2) may only require the taxpayer to certify, under penalty of
738 perjury, that the taxpayer qualifies for the exemption under Subsection (2).

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

741 [~~(4)~~] (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
742 Act, the commission may make rules to administer this section and provide for uniform
743 implementation.

744 Section 7. ~~H~~→ [~~Retrospective operation.~~] Effective date. ←~~H~~

745 This bill ~~H~~→ [~~has retrospective operation to~~] takes effect on ←~~H~~ January 1,
745a ~~H~~→ [~~2013~~] 2014 ←~~H~~ .

Legislative Review Note
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Office of Legislative Research and General Counsel