

**TAXATION OF PROPERTY AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Douglas V. Sagers**

Senate Sponsor: Evan J. Vickers

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**LONG TITLE**

**General Description:**

This bill amends provisions related to the taxation of property.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires a county assessor to consider certain factors in determining the fair market value of property; and
- ▶ provides that provisions requiring a county assessor to consider certain factors in determining the fair market value of property apply to the privilege tax.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**59-4-101**, as last amended by Laws of Utah 2006, Chapter 36

ENACTS:

**59-2-301.7**, Utah Code Annotated 1953

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

Section 1. Section **59-2-301.7** is enacted to read:

**59-2-301.7. Definitions -- Assessment of property used for radioactive or**

30 **hazardous waste storage.**

31 (1) As used in this section:

32 (a) "Hazardous waste" has the same meaning as that term is defined in Section  
33 19-6-102.

34 (b) (i) "Radioactive waste" means:

35 (A) low-level radioactive waste as defined in 42 U.S.C. Sec. 10101; or

36 (B) high-level radioactive waste as defined in 42 U.S.C. Sec. 10101.

37 (ii) "Radioactive waste" does not include naturally occurring radioactive materials.

38 (2) Subject to Subsection (3), in assessing the fair market value of property, a county  
39 assessor shall consider, as part of the determination of fair market value, whether property that  
40 is not currently used for the storage of hazardous waste or radioactive waste has been used in  
41 the past for the storage of hazardous waste or radioactive waste in a manner that affects:

42 (a) the functionality of the property;

43 (b) the ability to use the property; or

44 (c) property rights.

45 (3) Subsection (2) applies to the extent a county assessor knows, or reasonably should  
46 have known, that property has been used in the past for the storage of hazardous waste or  
47 radioactive waste.

48 (4) This section does not prohibit a county assessor from including as part of a  
49 determination of the fair market value of property any other factor affecting the fair market  
50 value of the property.

51 Section 2. Section **59-4-101** is amended to read:

52 **59-4-101. Tax basis -- Exceptions -- Assessment and collection.**

53 (1) (a) Except as provided in Subsections (1)(b) and (c), a tax is imposed on the  
54 possession or other beneficial use enjoyed by any person of any real or personal property which  
55 for any reason is exempt from taxation, if that property is used in connection with a business  
56 conducted for profit.

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

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

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

63 (2) The tax imposed under this chapter is the same amount that the ad valorem property  
64 tax would be if the possessor or user were the owner of the property. The amount of any  
65 payments which are made in lieu of taxes is credited against the tax imposed on the beneficial  
66 use of property owned by the federal government.

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

68 (a) the use of property which is a concession in, or relative to, the use of a public  
69 airport, park, fairground, or similar property which is available as a matter of right to the use of  
70 the general public;

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

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

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

78 (e) the use or possession of any lease, permit, or easement unless the lease, permit, or  
79 easement entitles the lessee or permittee to exclusive possession of the premises to which the  
80 lease, permit, or easement relates. Every lessee, permittee, or other holder of a right to remove  
81 or extract the mineral covered by the holder's lease, right, permit, or easement except from  
82 brines of the Great Salt Lake, is considered to be in possession of the premises,  
83 notwithstanding the fact that other parties may have a similar right to remove or extract another  
84 mineral from the same lands or estates;

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

86 [11-13-103](#), to the extent that the ownership interest of the public agency in that property is  
87 subject to a fee in lieu of ad valorem property tax under Section [11-13-302](#); or

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

90 (4) A tax imposed under this chapter is assessed to the possessors or users of the  
91 property on the same forms, and collected and distributed at the same time and in the same  
92 manner, as taxes assessed owners, possessors, or other claimants of property which is subject to  
93 ad valorem property taxation. The tax is not a lien against the property, and no tax-exempt  
94 property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.

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

97 Section 3. **Effective date.**

98 This bill takes effect on January 1, 2016.