

PROPERTY TAX RESIDENTIAL EXEMPTION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to the property tax residential exemption.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses qualification and application requirements for the property tax residential exemption; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2015.

Utah Code Sections Affected:

AMENDS:

17-41-101, as last amended by Laws of Utah 2009, Chapter 376

59-2-102, as last amended by Laws of Utah 2013, Chapters 19 and 322

59-2-103, as last amended by Laws of Utah 2004, Chapters 90 and 281

59-2-103.5, as last amended by Laws of Utah 2013, Chapter 19

59-2-804, as enacted by Laws of Utah 2008, Chapter 283

59-7-302, as last amended by Laws of Utah 2010, Chapter 155



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

Section 1. Section **17-41-101** is amended to read:

17-41-101. Definitions.

As used in this chapter:

(1) "Advisory board" means:

(a) for an agriculture protection area, the agriculture protection area advisory board created as provided in Section [17-41-201](#); and

(b) for an industrial protection area, the industrial protection area advisory board created as provided in Section [17-41-201](#).

(2) (a) "Agriculture production" means production for commercial purposes of crops, livestock, and livestock products.

(b) "Agriculture production" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.

(3) "Agriculture protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(4) "Applicable legislative body" means:

(a) with respect to a proposed agriculture protection area or industrial protection area:

(i) the legislative body of the county in which the land proposed to be included in an agriculture protection area or industrial protection area is located, if the land is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the land proposed to be included in an agriculture protection area or industrial protection area is located; and

(b) with respect to an existing agriculture protection area or industrial protection area:

(i) the legislative body of the county in which the agriculture protection area or industrial protection area is located, if the agriculture protection area or industrial protection area is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the agriculture protection area or industrial protection area is located.

(5) "Board" means the Board of Oil, Gas, and Mining created in Section [40-6-4](#).

- 59 (6) "Crops, livestock, and livestock products" includes:
- 60 (a) land devoted to the raising of useful plants and animals with a reasonable
- 61 expectation of profit, including:
- 62 (i) forages and sod crops;
- 63 (ii) grains and feed crops;
- 64 (iii) livestock as defined in [~~Subsection~~] Section 59-2-102~~[(27)(d)]~~;
- 65 (iv) trees and fruits; or
- 66 (v) vegetables, nursery, floral, and ornamental stock; or
- 67 (b) land devoted to and meeting the requirements and qualifications for payments or
- 68 other compensation under a crop-land retirement program with an agency of the state or federal
- 69 government.
- 70 (7) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.
- 71 (8) "Industrial protection area" means a geographic area created under the authority of
- 72 this chapter that is granted the specific legal protections contained in this chapter.
- 73 (9) "Mine operator" means a natural person, corporation, association, partnership,
- 74 receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or
- 75 representative, either public or private, including a successor, assign, affiliate, subsidiary, and
- 76 related parent company, that, as of January 1, 2009:
- 77 (a) owns, controls, or manages a mining use under a large mine permit issued by the
- 78 division or the board; and
- 79 (b) has produced commercial quantities of a mineral deposit from the mining use.
- 80 (10) "Mineral deposit" has the same meaning as defined in Section 40-8-4, but
- 81 excludes:
- 82 (a) building stone, decorative rock, and landscaping rock; and
- 83 (b) consolidated rock that:
- 84 (i) is not associated with another deposit of minerals;
- 85 (ii) is or may be extracted from land; and
- 86 (iii) is put to uses similar to the uses of sand, gravel, and other aggregates.
- 87 (11) "Mining protection area" means land where a vested mining use occurs, including
- 88 each surface or subsurface land or mineral estate that a mine operator with a vested mining use
- 89 owns or controls.

- 90 (12) "Mining use":
- 91 (a) means:
- 92 (i) the full range of activities, from prospecting and exploration to reclamation and
- 93 closure, associated with the exploitation of a mineral deposit; and
- 94 (ii) the use of the surface and subsurface and groundwater and surface water of an area
- 95 in connection with the activities described in Subsection (12)(a)(i) that have been, are being, or
- 96 will be conducted; and
- 97 (b) includes, whether conducted on-site or off-site:
- 98 (i) any sampling, staking, surveying, exploration, or development activity;
- 99 (ii) any drilling, blasting, excavating, or tunneling;
- 100 (iii) the removal, transport, treatment, deposition, and reclamation of overburden,
- 101 development rock, tailings, and other waste material;
- 102 (iv) any removal, transportation, extraction, beneficiation, or processing of ore;
- 103 (v) any smelting, refining, autoclaving, or other primary or secondary processing
- 104 operation;
- 105 (vi) the recovery of any mineral left in residue from a previous extraction or processing
- 106 operation;
- 107 (vii) a mining activity that is identified in a work plan or permitting document;
- 108 (viii) the use, operation, maintenance, repair, replacement, or alteration of a building,
- 109 structure, facility, equipment, machine, tool, or other material or property that results from or is
- 110 used in a surface or subsurface mining operation or activity;
- 111 (ix) any accessory, incidental, or ancillary activity or use, both active and passive,
- 112 including a utility, private way or road, pipeline, land excavation, working, embankment, pond,
- 113 gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use
- 114 area, buffer zone, and power production facility;
- 115 (x) the construction of a storage, factory, processing, or maintenance facility; and
- 116 (xi) any activity described in Subsection 40-8-4(14)(a).
- 117 (13) (a) "Municipal" means of or relating to a city or town.
- 118 (b) "Municipality" means a city or town.
- 119 (14) "New land" means surface or subsurface land or mineral estate that a mine
- 120 operator gains ownership or control of, whether or not that land or mineral estate is included in

121 the mine operator's large mine permit.

122 (15) "Off-site" has the same meaning as provided in Section 40-8-4.

123 (16) "On-site" has the same meaning as provided in Section 40-8-4.

124 (17) "Planning commission" means:

125 (a) a countywide planning commission if the land proposed to be included in the
126 agriculture protection area or industrial protection area is within the unincorporated part of the
127 county and not within a township;

128 (b) a township planning commission if the land proposed to be included in the
129 agriculture protection area or industrial protection area is within a township; or

130 (c) a planning commission of a city or town if the land proposed to be included in the
131 agriculture protection area or industrial protection area is within a city or town.

132 (18) "Political subdivision" means a county, city, town, school district, local district, or
133 special service district.

134 (19) "Proposal sponsors" means the owners of land in agricultural production or
135 industrial use who are sponsoring the proposal for creating an agriculture protection area or
136 industrial protection area, respectively.

137 (20) "State agency" means each department, commission, board, council, agency,
138 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
139 unit, bureau, panel, or other administrative unit of the state.

140 (21) "Unincorporated" means not within a city or town.

141 (22) "Vested mining use" means a mining use:

142 (a) by a mine operator; and

143 (b) that existed or was conducted or otherwise engaged in before a political subdivision
144 prohibits, restricts, or otherwise limits a mining use.

145 Section 2. Section 59-2-102 is amended to read:

146 **59-2-102. Definitions.**

147 As used in this chapter and title:

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

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

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

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

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

160 (i) operates:

161 (A) on an interstate route; and

162 (B) on a scheduled basis; and

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

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

166 (i) air charter service; or

167 (ii) air contract service.

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

172 (7) (a) "Certified revenue levy" means a property tax levy that provides an amount of
173 ad valorem property tax revenue equal to the sum of:

174 (i) the amount of ad valorem property tax revenue to be generated statewide in the
175 previous year from imposing a school minimum basic tax rate, as specified in Subsection
176 53A-17a-135(1)(a), or multicounty assessing and collecting levy, as specified in Section
177 59-2-1602; and

178 (ii) the product of:

179 (A) new growth, as defined in:

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

181 (II) rules of the commission; and

182 (B) the school minimum basic tax rate or multicounty assessing and collecting levy

183 certified by the commission for the previous year.

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

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

187 (ii) semiconductor manufacturing equipment.

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

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

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

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

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

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

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

201 (c) vehicles that are:

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

204 (ii) used or licensed as taxicabs or limousines;

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

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

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

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

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

213 (i) a county; and

214 (ii) a school district.

215 (b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created
216 by the overlapping boundaries of:

217 (i) the taxing entities described in Subsection (9)(a); and

218 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a)
219 and the boundaries of the city or town are identical; or

220 (B) a special service district if the boundaries of the school district under Subsection
221 (9)(a) are located entirely within the special service district.

222 (10) "Eligible judgment" means a final and unappealable judgment or order under
223 Section [59-2-1330](#):

224 (a) that became a final and unappealable judgment or order no more than 14 months
225 prior to the day on which the notice required by Section [59-2-919.1](#) is required to be mailed;
226 and

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

229 (i) \$5,000; or

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

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

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

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

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

240 (b) Property that is undervalued because of the use of a different valuation
241 methodology or because of a different application of the same valuation methodology is not
242 "escaped property."

243 (12) "Fair market value" means the amount at which property would change hands
244 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell

245 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
246 market value" shall be determined using the current zoning laws applicable to the property in
247 question, except in cases where there is a reasonable probability of a change in the zoning laws
248 affecting that property in the tax year in question and the change would have an appreciable
249 influence upon the value.

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

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

259 (15) "Geothermal resource" means:

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

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

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

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

266 (A) of a taxpayer; and

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

268 (ii) the ability of a business to:

269 (A) generate income:

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

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

272 (B) obtain an economic or competitive advantage resulting from a factor described in
273 Subsection (16)(b).

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

275 (i) superior management skills;

- 276 (ii) reputation;
- 277 (iii) customer relationships;
- 278 (iv) patronage; or
- 279 (v) a factor similar to Subsections (16)(b)(i) through (iv).
- 280 (c) "Goodwill" does not include:
- 281 (i) the intangible property described in Subsection (20)(a) or (b);
- 282 (ii) locational attributes of real property, including:
- 283 (A) zoning;
- 284 (B) location;
- 285 (C) view;
- 286 (D) a geographic feature;
- 287 (E) an easement;
- 288 (F) a covenant;
- 289 (G) proximity to raw materials;
- 290 (H) the condition of surrounding property; or
- 291 (I) proximity to markets;
- 292 (iii) value attributable to the identification of an improvement to real property,
- 293 including:
- 294 (A) reputation of the designer, builder, or architect of the improvement;
- 295 (B) a name given to, or associated with, the improvement; or
- 296 (C) the historic significance of an improvement; or
- 297 (iv) the enhancement or assemblage value specifically attributable to the interrelation
- 298 of the existing tangible property in place working together as a unit.
- 299 (17) "Governing body" means:
- 300 (a) for a county, city, or town, the legislative body of the county, city, or town;
- 301 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
- 302 Local Districts, the local district's board of trustees;
- 303 (c) for a school district, the local board of education; or
- 304 (d) for a special service district under Title 17D, Chapter 1, Special Service District
- 305 Act:
- 306 (i) the legislative body of the county or municipality that created the special service

307 district, to the extent that the county or municipal legislative body has not delegated authority
308 to an administrative control board established under Section 17D-1-301; or

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

312 (18) (a) For purposes of Section 59-2-103:

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

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

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

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

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

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

325 (ii) removal of the item would:

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

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

328 (b) "Improvement" includes:

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

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

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

332 and

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

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

335 (B) remains located on the land.

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

337 (i) an item considered to be personal property pursuant to rules made in accordance

338 with Section [59-2-107](#);

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

340 (A) for stability only; or

341 (B) for an obvious temporary purpose;

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

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

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

346 (A) the land; or

347 (B) the item; or

348 (v) a transportable factory-built housing unit as defined in Section [59-2-1502](#) if that
349 transportable factory-built housing unit is considered to be personal property under Section
350 [59-2-1503](#).

351 (20) "Intangible property" means:

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

354 (i) money;

355 (ii) credits;

356 (iii) bonds;

357 (iv) stocks;

358 (v) representative property;

359 (vi) franchises;

360 (vii) licenses;

361 (viii) trade names;

362 (ix) copyrights; and

363 (x) patents;

364 (b) a low-income housing tax credit;

365 (c) goodwill; or

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

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

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

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

373 (iv) a tax credit under Subsection 59-7-614(2)(c).

374 (21) "Livestock" means:

375 (a) a domestic animal;

376 (b) a fur-bearing animal;

377 (c) a honeybee; or

378 (d) poultry.

379 [~~21~~] (22) "Low-income housing tax credit" means:

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

381 or

382 (b) a low-income housing tax credit under:

383 (i) Section 59-7-607; or

384 (ii) Section 59-10-1010.

385 [~~22~~] (23) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and
386 uranium.

387 [~~23~~] (24) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
388 valuable mineral.

389 [~~24~~] (25) "Mining" means the process of producing, extracting, leaching, evaporating,
390 or otherwise removing a mineral from a mine.

391 [~~25~~] (26) (a) "Mobile flight equipment" means tangible personal property that is:

392 (i) owned or operated by an:

393 (A) air charter service;

394 (B) air contract service; or

395 (C) airline; and

396 (ii) (A) capable of flight;

397 (B) attached to an aircraft that is capable of flight; or

398 (C) contained in an aircraft that is capable of flight if the tangible personal property is
399 intended to be used:

400 (I) during multiple flights;
401 (II) during a takeoff, flight, or landing; and
402 (III) as a service provided by an air charter service, air contract service, or airline.

403 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
404 engine that is rotated:
405 (A) at regular intervals; and
406 (B) with an engine that is attached to the aircraft.

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

409 ~~[(26)]~~ (27) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal,
410 salts, sand, rock, gravel, and all carboniferous materials.

411 (28) "Part-year residential property" means property that is not residential property on
412 January 1 of a calendar year but becomes residential property after January 1 of the calendar
413 year.

414 ~~[(27)]~~ (29) "Personal property" includes:
415 (a) every class of property as defined in Subsection ~~[(28)]~~ (30) that is the subject of
416 ownership and not included within the meaning of the terms "real estate" and "improvements";
417 (b) gas and water mains and pipes laid in roads, streets, or alleys;
418 (c) bridges and ferries;
419 (d) livestock~~[, which, for the purposes of the exemption provided under Section~~
420 ~~59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish]~~; and
421 (e) outdoor advertising structures as defined in Section 72-7-502.

422 ~~[(28)]~~ (30) (a) "Property" means property that is subject to assessment and taxation
423 according to its value.

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

425 ~~[(29)]~~ (31) "Public utility," for purposes of this chapter, means the operating property
426 of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
427 company, electrical corporation, telephone corporation, sewerage corporation, or heat
428 corporation where the company performs the service for, or delivers the commodity to, the
429 public generally or companies serving the public generally, or in the case of a gas corporation
430 or an electrical corporation, where the gas or electricity is sold or furnished to any member or

431 consumers within the state for domestic, commercial, or industrial use. Public utility also
432 means the operating property of any entity or person defined under Section 54-2-1 except water
433 corporations.

434 ~~[(30)]~~ (32) (a) Subject to Subsection ~~[(30)]~~ (32)(b), "qualifying exempt primary
435 residential rental personal property" means household furnishings, furniture, and equipment
436 that:

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

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

439 tenant; and

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

442 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
443 commission may by rule define the term "dwelling unit" for purposes of this Subsection ~~[(30)]~~
444 (32) and Subsection ~~[(33)]~~ (35).

445 ~~[(31)]~~ (33) "Real estate" or "real property" includes:

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

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

450 (c) improvements.

451 ~~[(32)]~~ (34) "Relationship with an owner of the property's land surface rights" means a
452 relationship described in Subsection 267(b), Internal Revenue Code:

453 (a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term
454 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and

455 (b) using the ownership rules of Subsection 267(c), Internal Revenue Code, for
456 determining the ownership of stock.

457 ~~[(33)]~~ (35) (a) Subject to Subsection ~~[(33)]~~ (35)(b), "residential property," for the
458 purposes of the reductions and adjustments under this chapter, means any property used for
459 residential purposes as a primary residence.

460 (b) Subject to Subsection ~~[(33)]~~ (35)(c), "residential property":

461 (i) except as provided in Subsection ~~[(33)]~~ (35)(b)(ii), includes household furnishings,

462 furniture, and equipment if the household furnishings, furniture, and equipment are:

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

464 and

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

466 and

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

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

469 commission may by rule define the term "dwelling unit" for purposes of Subsection [~~(30)~~] (32)

470 and this Subsection [~~(33)~~] (35).

471 [~~(34)~~] (36) "Split estate mineral rights owner" means a person who:

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

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

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

475 (ii) an entity with an ownership interest in the land surface rights of the property where

476 the wellhead is located;

477 (c) is not an entity in which the owner of the land surface rights of the property where

478 the wellhead is located holds more than a 25% interest; and

479 (d) does not have a relationship with an owner of the land surface rights of the property

480 where the wellhead is located.

481 [~~(35)~~] (37) (a) "State-assessed commercial vehicle" means:

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

484 (ii) any commercial vehicle, trailer, or semitrailer which operates interstate and

485 transports the vehicle owner's goods or property in furtherance of the owner's commercial

486 enterprise.

487 (b) "State-assessed commercial vehicle" does not include vehicles used for hire which

488 are specified in Subsection (8)(c) as county-assessed commercial vehicles.

489 [~~(36)~~] (38) "Taxable value" means fair market value less any applicable reduction

490 allowed for residential property under Section 59-2-103.

491 [~~(37)~~] (39) "Tax area" means a geographic area created by the overlapping boundaries

492 of one or more taxing entities.

493 ~~[(38)]~~ (40) "Taxing entity" means any county, city, town, school district, special taxing
 494 district, local district under Title 17B, Limited Purpose Local Government Entities - Local
 495 Districts, or other political subdivision of the state with the authority to levy a tax on property.

496 ~~[(39)]~~ (41) "Tax roll" means a permanent record of the taxes charged on property, as
 497 extended on the assessment roll and may be maintained on the same record or records as the
 498 assessment roll or may be maintained on a separate record properly indexed to the assessment
 499 roll. It includes tax books, tax lists, and other similar materials.

500 Section 3. Section **59-2-103** is amended to read:

501 **59-2-103. Rate of assessment of property -- Residential property.**

502 (1) All tangible taxable property located within the state shall be assessed and taxed at
 503 a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless
 504 otherwise provided by law.

505 (2) Subject to Subsections ~~[(3) and (4), beginning on January 1, 1995]~~ (3) through (5)
 506 and Section 59-2-103.5, for a calendar year, the fair market value of residential property
 507 located within the state ~~[shall be reduced by 45%, representing a residential exemption allowed~~
 508 ~~under Utah Constitution Article XIII, Section 2.]~~ is allowed a residential exemption equal to a
 509 45% reduction in the value of the property.

510 (3) Part-year residential property located within the state is allowed the residential
 511 exemption described in Subsection (2) if the part-year residential property is used as residential
 512 property for 183 or more consecutive calendar days during the calendar year for which the
 513 owner seeks to obtain the residential exemption.

514 ~~[(3)]~~ (4) No more than one acre of land per residential unit may qualify for the
 515 residential exemption described in Subsection (2).

516 ~~[(4)]~~ (5) (a) Except as provided in Subsection ~~[(4)]~~ (5)(b)(ii), ~~[beginning on January 1,~~
 517 ~~2005, the]~~ a residential exemption described in Subsection (2) is limited to one primary
 518 residence per household.

519 (b) An owner of multiple ~~[residential properties]~~ primary residences located within the
 520 state is allowed a residential exemption under Subsection (2) for:

- 521 (i) subject to Subsection ~~[(4)]~~ (5)(a), the primary residence of the owner; and
- 522 (ii) each residential property that is the primary residence of a tenant.

523 Section 4. Section **59-2-103.5** is amended to read:

524 **59-2-103.5. Procedures to obtain an exemption for residential property --**
525 **Procedure if property owner or property no longer qualifies to receive a residential**
526 **exemption.**

527 ~~[(1) Subject to the other provisions of this section, a county legislative body may by~~
528 ~~ordinance require that in order for residential property to be allowed a residential exemption in~~
529 ~~accordance with Section 59-2-103, an owner of the residential property shall file with the~~
530 ~~county board of equalization a statement:]~~

531 (1) For residential property other than part-year residential property, a county
532 legislative body may adopt an ordinance that requires an owner to file an application with the
533 county board of equalization before a residential exemption under Section 59-2-103 may be
534 applied to the value of the residential property if:

535 (a) the residential property was ineligible for the residential exemption during the
536 calendar year immediately preceding the calendar year for which the owner is seeking to have
537 the residential exemption applied to the value of the residential property;

538 (b) an ownership interest in the residential property changes; or

539 (c) the county board of equalization determines that there is reason to believe that the
540 residential property no longer qualifies for the residential exemption.

541 (2) (a) The application described in Subsection (1) shall:

542 ~~[(a)]~~ (i) be on a form [prescribed by] the commission prescribes by rule and makes
543 available to the counties;

544 ~~[(b)]~~ (ii) be signed by all of the owners of the residential property;

545 ~~[(c) certifying]~~ (iii) certify that the residential property is residential property; and

546 ~~[(d) containing]~~ (iv) contain other information as [required by] the commission
547 requires by rule.

548 ~~[(2) (a) Subject to Section 59-2-103 and except as provided in Subsection (3), a county~~
549 ~~board of equalization shall allow an owner described in Subsection (1) a residential exemption~~
550 ~~for the residential property described in Subsection (1) if:]~~

551 ~~[(i) the county legislative body enacts the ordinance described in Subsection (1); and]~~

552 ~~[(ii) the county board of equalization determines that the requirements of Subsection~~
553 ~~(1) are met.]~~

554 ~~[(b) A county board of equalization may require an owner of the residential property~~

555 described in Subsection (1) to file the statement described in Subsection (1) only if:]

556 ~~[(i) that residential property was ineligible for the residential exemption authorized~~
557 ~~under Section 59-2-103 during the calendar year immediately preceding the calendar year for~~
558 ~~which the owner is seeking to claim the residential exemption for that residential property;]~~

559 ~~[(ii) an ownership interest in that residential property changes; or]~~

560 ~~[(iii) the county board of equalization determines that there is reason to believe that~~
561 ~~that residential property no longer qualifies for the residential exemption in accordance with~~
562 ~~Section 59-2-103;]~~

563 ~~[(3) Notwithstanding Subsection (2)(a), if a county legislative body does not enact an~~
564 ~~ordinance requiring an owner to file a statement in accordance with this section, the county~~
565 ~~board of equalization:]~~

566 ~~[(a) may not require an owner to file a statement for residential property to be eligible~~
567 ~~for a residential exemption in accordance with Section 59-2-103; and]~~

568 ~~[(b) shall allow a residential exemption for residential property in accordance with~~
569 ~~Section 59-2-103;]~~

570 ~~[(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
571 ~~the commission shall make rules providing:]~~

572 ~~[(i) the form for the statement described in Subsection (1); and]~~

573 ~~[(ii) the contents of the form for the statement described in Subsection (1).]~~

574 ~~[(b) The commission shall make the form described in Subsection (4)(a) available to~~
575 ~~counties.]~~

576 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
577 commission may make rules prescribing the contents of the form described in Subsection
578 (2)(a).

579 (3) (a) Regardless of whether a county legislative body adopts an ordinance described
580 in Subsection (1), before a residential exemption may be applied to the value of part-year
581 residential property, an owner of the property shall:

582 (i) file the application described in Subsection (2)(a) with the county board of
583 equalization; and

584 (ii) include as part of the application described in Subsection (2)(a) a statement that
585 certifies:

586 (A) the date the part-year residential property became residential property; and
587 (B) that the part-year residential property is used as residential property for 183 or
588 more consecutive calendar days during the calendar year for which the owner seeks to obtain
589 the residential exemption.

590 (b) An owner may not obtain a residential exemption for part-year residential property
591 unless the owner files an application under this Subsection (3) on or before August 31 of the
592 calendar year for which the owner seeks to obtain the residential exemption.

593 (c) If an owner files an application under this Subsection (3) on or after May 1 of the
594 calendar year for which the owner seeks to obtain the residential exemption, the county board
595 of equalization may require the owner to pay an application fee of not to exceed \$50.

596 ~~[(5)]~~ (4) Except as provided in Subsection ~~[(6)]~~ (5), if a property owner no longer
597 qualifies to receive a residential exemption authorized under Section 59-2-103 for ~~[that]~~ the
598 property owner's primary residence, the property owner shall:

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

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

602 (ii) notifying the county board of equalization that the property owner no longer
603 qualifies to receive a residential exemption authorized under Section 59-2-103 for ~~[that]~~ the
604 property owner's primary residence; and

605 (b) declare on the property owner's individual income tax return under Chapter 10,
606 Individual Income Tax Act, for the taxable year for which the property owner no longer
607 qualifies to receive a residential exemption authorized under Section 59-2-103 for ~~[that]~~ the
608 property owner's primary residence, that the property owner no longer qualifies to receive a
609 residential exemption authorized under Section 59-2-103 for ~~[that]~~ the property owner's
610 primary residence.

611 ~~[(6)]~~ (5) A property owner is not required to file a written statement or make the
612 declaration described in Subsection ~~[(5)]~~ (4) if the property owner:

613 (a) changes primary residences;

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

616 (c) qualifies to receive a residential exemption authorized under Section 59-2-103 for

617 the residence that is the property owner's current primary residence.

618 ~~[(7)(a)]~~ (6) Subsections (2) through ~~[(6)]~~ (5) do not apply to qualifying exempt
619 primary residential rental personal property.

620 ~~[(b)(i)]~~ (7) (a) For the first calendar year in which a ~~[taxpayer qualifies for an~~
621 ~~exemption described in Subsection (2)]~~ property owner qualifies to receive a residential
622 exemption under Section 59-2-103, a county assessor may require the ~~[taxpayer]~~ property
623 owner to file a signed statement described in Section 59-2-306.

624 ~~[(i)]~~ (b) Notwithstanding Section 59-2-306, for a calendar year after the calendar year
625 described in Subsection (7)~~[(b)(i)]~~(a) in which a ~~[taxpayer]~~ property owner qualifies for an
626 exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential
627 rental personal property, a signed statement described in Section 59-2-306 with respect to the
628 qualifying exempt primary residential rental personal property may only require the ~~[taxpayer]~~
629 property owner to certify, under penalty of perjury, that the ~~[taxpayer]~~ property owner qualifies
630 for the exemption under Subsection 59-2-1115(2).

631 Section 5. Section 59-2-804 is amended to read:

632 **59-2-804. Interstate allocation of mobile flight equipment.**

633 (1) As used in this section:

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

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

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

639 (ii) the cost percentage.

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

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

645 (i) owned or operated by the airline; and

646 (ii) that has the lowest average cost.

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

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

650 (ii) .50.

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

653 (ii) "Mobile flight equipment" does not include tangible personal property described in
654 Subsection 59-2-102~~[(25)]~~(26) owned by an:

655 (A) air charter service; or

656 (B) air contract service.

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

658 (i) the ground hours factor; and

659 (ii) the revenue ton miles factor.

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

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

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

664 (ii) .50.

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

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

668 (ii) the cost percentage.

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

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

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

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

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

678 (b) the mobile flight equipment allocation factor.

679 Section 6. Section 59-7-302 is amended to read:

680 **59-7-302. Definitions -- Determination of when a taxpayer is considered to be a**
681 **sales factor weighted taxpayer.**

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

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

685 (b) "Airline" is as defined in Section 59-2-102.

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

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

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

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

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

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

699 (A) a spare engine; or

700 (B) tangible personal property described in Subsection 59-2-102[(25)](26) owned by
701 an:

702 (I) air charter service; or

703 (II) air contract service.

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

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

706 (j) "Sales" means all gross receipts of the taxpayer not allocated under Sections
707 59-7-306 through 59-7-310.

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

709 (i) for a taxpayer that is not a unitary group, regardless of the number of economic

710 activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales
711 everywhere generated by economic activities:

712 (A) performed by the taxpayer; and

713 (B) classified in a NAICS code of the 2002 or 2007 North American Industry

714 Classification System of the federal Executive Office of the President, Office of Management
715 and Budget, except for:

716 (I) a NAICS code within NAICS Sector 21, Mining;

717 (II) a NAICS code within NAICS Sector 31-33, Manufacturing;

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

719 (IV) a NAICS code within NAICS Sector 51, Information, except for NAICS

720 Subsector 519, Other Information Services; or

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

722 (ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the
723 taxpayer's total sales everywhere generated by economic activities:

724 (A) performed by the unitary group; and

725 (B) classified in a NAICS code of the 2002 or 2007 North American Industry

726 Classification System of the federal Executive Office of the President, Office of Management
727 and Budget, except for:

728 (I) a NAICS code within NAICS Sector 21, Mining;

729 (II) a NAICS code within NAICS Sector 31-33, Manufacturing;

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

731 (IV) a NAICS code within NAICS Sector 51, Information, except for NAICS

732 Subsector 519, Other Information Services; or

733 (V) a NAICS code within NAICS Sector 52, Finance and Insurance.

734 (l) "State" means any state of the United States, the District of Columbia, the

735 Commonwealth of Puerto Rico, any territory or possession of the United States, and any
736 foreign country or political subdivision thereof.

737 (m) "Transportation revenue" means revenue an airline earns from:

738 (i) transporting a passenger or cargo; or

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

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

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

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

745 (2) The following apply to Subsection (1)(k):

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

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

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

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

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

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

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

762 Section 7. **Effective date.**

763 This bill takes effect on January 1, 2015.

Legislative Review Note

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Office of Legislative Research and General Counsel