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# PRIVILEGE TAX AMENDMENTS

2

2016 GENERAL SESSION

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STATE OF UTAH

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**Chief Sponsor: Jon E. Stanard**

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Senate Sponsor: \_\_\_\_\_

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**7 LONG TITLE****8 Committee Note:**

9 The Revenue and Taxation Interim Committee recommended this bill.

**10 General Description:**

11 This bill modifies the privilege tax statute.

**12 Highlighted Provisions:**

13 This bill:

- 14 ▶ defines "exclusive possession" as it relates to a privilege tax; and
- 15 ▶ makes technical changes.

**16 Money Appropriated in this Bill:**

17 None

**18 Other Special Clauses:**

19 This bill provides for retrospective operation.

**20 Utah Code Sections Affected:**

21 AMENDS:

22 [59-4-101](#), as last amended by Laws of Utah 2015, Chapter 199

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*24 Be it enacted by the Legislature of the state of Utah:*25 Section 1. Section **59-4-101** is amended to read:26 **59-4-101. Tax basis -- Exceptions -- Assessment and collection.**27 (1) As used in this section, "exclusive possession" means:

28 (a) for real property, the beneficial use of the property, together with the  
29 ability to  
30 exclude from occupancy and use any person other than the owner or an agent  
31 of the owner; and  
32 (b) for personal property, the beneficial use of the property, together with the  
33 ability to  
34 exclude any person other than the owner or an agent of the owner from the  
35 beneficial use of the  
36 property.  
37 ~~(1)~~ (2) (a) Except as provided in Subsections ~~(1)~~ (2)(b) ~~and~~ (2)(c), and  
38 (4), a tax  
39 is imposed on the possession or other beneficial use enjoyed by any person of  
40 any real or  
41 personal property ~~which~~ that is exempt for any reason ~~[is exempt]~~ from  
42 taxation, if that  
43 property is used in connection with a business conducted for profit.  
44 (b) Any interest remaining in the state in state lands after subtracting  
45 amounts paid or  
46 due in part payment of the purchase price as provided in Subsection [59-2-](#)  
47 [1103](#)(2)(b)(i) under a  
48 contract of sale is subject to taxation under this chapter regardless of whether  
49 the property is  
50 used in connection with a business conducted for profit.  
51 (c) The tax imposed under Subsection ~~(1)~~ (2)(a) does not apply to property  
52 exempt  
53 from taxation under Section [59-2-1114](#).  
54 ~~(2)~~ (3) (a) The tax imposed under this chapter is the same amount that the  
55 ad  
56 valorem property tax would be if the possessor or user were the owner of the  
57 property.  
58 (b) The amount of any payments ~~which~~ that are made in lieu of taxes is  
59 credited  
60 against the tax imposed on the beneficial use of property owned by the federal  
61 government.  
62 ~~(3)~~ (4) A tax is not imposed under this chapter on the following:  
63 (a) the use of property ~~which~~ that is a concession in, or relative to, the use  
64 of a public  
65 airport, park, fairground, or similar property ~~which~~ that is available as a matter  
66 of right to the  
67 use of the general public;  
68 (b) the use or possession of property by a religious, educational, or  
69 charitable  
70 organization;

53 (c) the use or possession of property if the revenue generated by the  
54 possessor or user  
55 of the property through its possession or use of the property inures only to the  
56 benefit of a  
57 religious, educational, or charitable organization and not to the benefit of any  
58 other person;  
59 (d) the possession or other beneficial use of public land occupied under the  
60 terms of an  
61 agricultural lease or permit issued by the United States or this state;  
62 (e) the use or possession of any lease, permit, or easement unless the lease,  
63 permit, or

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64 easement entitles the lessee or permittee to exclusive possession of the  
65 premises to which the  
66 lease, permit, or easement relates. Every lessee, permittee, or other holder of a  
67 right to remove  
68 or extract the mineral covered by the holder's lease, right, permit, or easement,  
69 except from  
70 brines of the Great Salt Lake, is considered to be in possession of the premises,  
71 ~~[notwithstanding the fact that other parties may have]~~ regardless of whether  
72 another party has a  
73 similar right to remove or extract another mineral from the same ~~[lands or~~  
74 ~~estates]~~ property;

75 (f) the use or possession of property by a public agency, as defined in  
76 Section  
77 [11-13-103](#), to the extent that the ownership interest of the public agency in that  
78 property is

79 subject to a fee in lieu of ad valorem property tax under Section [11-13-302](#); or

80 (g) the possession or beneficial use of public property as a tollway by a  
81 private entity

82 through a tollway development agreement as defined in Section [72-6-202](#).

83 ~~[(4)]~~ (5) A tax imposed under this chapter is assessed to the possessors or  
84 users of the

85 property on the same forms, and collected and distributed at the same time and  
86 in the same

87 manner, as taxes assessed owners, possessors, or other claimants of property  
88 ~~[which]~~ that is

89 subject to ad valorem property taxation. The tax is not a lien against the  
90 property, and no

91 tax-exempt property may be attached, encumbered, sold, or otherwise affected  
92 for the

93 collection of the tax.

94 ~~[(5)]~~ (6) Sections [59-2-301.1](#) through [59-2-301.7](#) apply for purposes of

assessing a tax

77 under this chapter.

78 Section 2. **Retrospective operation.**

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

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**Legislative Review Note**

**Office of Legislative Research and General Counsel**