



 WYOMING LEGISLATIVE SERVICE OFFICE

Memorandum

DATE September 1, 2004
TO Members, Intangible Property Subcommittee of the Joint Revenue Interim Committee
FROM Don Richards, Senior Research Analyst
SUBJECT Corporate Income Tax Rates and Taxation of Intangible Property of Other States

This transmittal memo responds to your requests for supplemental information prior to the September 20th meeting of the Intangible Property Subcommittee.

Requests:

- 1) **Provide a summary of the corporate income taxes imposed in other states.**
- 2) **Provide a summary of other states' treatment of intangible property for purposes of property taxation.**
- 3) **Provide copies of statutory language from neighboring states with respect to the taxation of intangible taxes.**

Responses:

1) According to the Federation of Tax Administrators, 45 of the 50 states impose a corporate income tax ranging from one (1) percent to twelve (12) percent. Five states, including Wyoming currently do not impose a corporate income tax: Michigan (imposes a "single business tax"), Nevada (imposes a "modified business tax"), Texas (imposes a "franchise" tax), Washington (imposes a "business and occupations tax"), and Wyoming. Attachment A provides a summary of all remaining state rates, including the District of Columbia, as prepared by the Federation of Tax Administrators.

2) According to a 2001 report of the Commerce Clearing House, *State Tax Guide*, and cited by the National Conference of State Legislatures (NCSL), eight states (Alabama, Florida, Kentucky, Mississippi, Ohio, Pennsylvania, Washington, and West Virginia) impose property tax on certain intangibles. Relevant excerpts from the 2002 NCSL report on property taxes are included as Attachment B.

One of the more well known taxes on intangible assets is Florida's one-mill on intangible assets. According to Florida Legislative staff, this tax dates back to the 1920s and previously included a tax on cash. Currently, the tax is primarily limited to stocks, bonds, and other specified indebtedness. Furthermore, Florida's tax (along with those of other states) has substantial exclusions or limitations.

3) Based upon a statutory review and discussions with appropriate state staff, none of the neighboring states extend property taxes to intangibles. Nonetheless, selected state staff did

indicate that due to the valuation methods used in certain industries, the inclusion of intangibles for property tax purposes was "imbedded" or inherent in the determination of value. Attachments C through H include a sample of neighboring state statutes governing property tax on intangibles and alternative taxes in specified industries.

Attachments are designated as follows: Attachment C - Colorado (including property tax treatment of the telecommunications industry); Attachment D - Idaho; Attachment E - Montana (including excerpts from statutes and rules); Attachment F - Nebraska; Attachment G - South Dakota (including statutes with special tax treatment of certain industries: railroads, telephone and telecommunications services, rural electric companies, financial institutions, and the insurance industry); and Attachment H - Utah.

If you have any questions or concerns, do not hesitate to contact me at 777-7881.

Enc. (8)

c: Mark Quiner, Assistant Director, LSO

ATTACHMENT A: CORPORATE INCOME TAX RATES

RANGE OF STATE CORPORATE INCOME TAX RATES

(For tax year 2004 -- as of January 1, 2004)

STATE	TAX RATE (percent)	TAX BRACKETS		NUMBER OF BRACKETS	TAX RATE (a) (percent)	FEDERAL INCOME TAX INST. DEDUCTIBLE
		LOWEST	HIGHEST			
ALABAMA	6.5	---Flat Rate---		1	6.5	*
ALASKA	1.0 - 9.4	10,000	90,000	10	1.0 - 9.4	
ARIZONA	6.968 (b)	---Flat Rate---		1	6.968 (b)	
ARKANSAS	1.0 - 6.5	3,000	100,000	6	1.0 - 6.5	
CALIFORNIA	8.84 (c)	---Flat Rate---		1	10.84 (c)	
COLORADO	4.63	---Flat Rate---		1	4.63	
CONNECTICUT	7.5 (d)	---Flat Rate---		1	7.5 (d)	
DELAWARE	8.7	---Flat Rate---		1	8.7-1.7 (e)	
FLORIDA	5.5 (f)	---Flat Rate---		1	5.5 (f)	
GEORGIA	6.0	---Flat Rate---		1	6.0	
HAWAII	4.4 - 6.4 (g)	25,000	100,000	3	7.92 (g)	
IDAHO	7.6 (h)	---Flat Rate---		1	7.6 (h)	
ILLINOIS	7.3 (i)	---Flat Rate---		1	7.3 (i)	
INDIANA	8.5	---Flat Rate---		1	8.5	
IOWA	6.0 - 12.0	25,000	250,000	4	5.0	* (k)
KANSAS	4.0 (l)	---Flat Rate---		1	2.25 (l)	
KENTUCKY	4.0 - 8.25	25,000	250,000	5	--- (a)	
LOUISIANA	4.0 - 8.0	25,000	200,000	5	--- (a)	*
MAINE	3.5 - 8.93 (m)	25,000	250,000	4	1.0	
MARYLAND	7.0	---Flat Rate---		1	7.0	
MASSACHUSETTS	9.5 (n)	---Flat Rate---		1	10.5 (n)	
MINNESOTA	9.8 (o)	---Flat Rate---		1	9.8 (o)	
MISSISSIPPI	3.0 - 5.0	5,000	10,000	3	3.0 - 5.0	
MISSOURI	6.25	---Flat Rate---		1	7.0	* (k)
MONTANA	6.75 (p)	---Flat Rate---		1	6.75 (p)	
NEBRASKA	5.58 - 7.81	50,000		2	--- (a)	
NEW HAMPSHIRE	8.5 (q)	---Flat Rate---		1	8.5 (q)	
NEW JERSEY	9.0 (r)	---Flat Rate---		1	9 (r)	
NEW MEXICO	4.8 - 7.6	500,000	1 million	3	4.8 - 7.6	
NEW YORK	7.5 (s)	---Flat Rate---		1	7.5 (s)	
NORTH CAROLINA	6.9 (t)	---Flat Rate---		1	6.9 (t)	
NORTH DAKOTA	3.0 - 10.5	3,000	50,000	6	7 (b)	*
OHIO	5.1 - 8.5 (u)	50,000		2	--- (u)	
OKLAHOMA	6.0	---Flat Rate---		1	6.0	
OREGON	6.6 (b)	---Flat Rate---		1	6.6 (b)	
PENNSYLVANIA	9.99	---Flat Rate---		1	--- (a)	
RHODE ISLAND	9.0 (b)	---Flat Rate---		1	9.0 (v)	
SOUTH CAROLINA	5.0	---Flat Rate---		1	4.5 (w)	
SOUTH DAKOTA	---	---		---	6.0-0.25% (b)	
TENNESSEE	6.5	---Flat Rate---		1	6.5	
UTAH	5.0 (b)	---Flat Rate---		---	5.0 (b)	
VERMONT	7.0 - 9.75 (b)	10,000	250,000	4	7.0 - 9.75 (b)	
VIRGINIA	6.0	---Flat Rate---		1	6.0 (x)	
WEST VIRGINIA	9.0	---Flat Rate---		1	9.0	
WISCONSIN	7.9	---Flat Rate---		1	7.9	
DIST. OF COLUMBIA	9.975 (y)	---Flat Rate---		---	9.975 (y)	

RANGE OF STATE CORPORATE INCOME TAX RATES (footnotes)

Source: Compiled by FTA from various sources

Note: Michigan imposes a single business tax (sometimes described as a business activities tax or value added tax) of 1.9% on the sum of federal taxable income of the business, compensation paid to employees, dividends, interest, royalties paid and other items. Similarly, Texas imposes a franchise tax of 4.5% of earned surplus or 2.5 mills of net worth. Nevada, Washington, and Wyoming do not have state corporate income taxes.

(a) Rates listed include the corporate tax rate applied to financial institutions or excise taxes based on income. Some states have other taxes based upon the value of deposits or shares.

(b) Minimum tax is \$50 in Arizona, \$50 in North Dakota (banks), \$10 in Oregon, \$250 in Rhode Island, \$500 per location in South Dakota (banks), \$100 in Utah, \$250 in Vermont.

(c) Minimum tax is \$800. The tax rate on S-Corporations is 1.5% (3.5% for banks).

(d) Or 3.1 mills per dollar of capital stock and surplus (maximum tax \$1 million) or \$250.

(e) The marginal rate decreases over 4 brackets ranging from \$20 to \$650 million in taxable income. Building and loan associations are taxed at a flat 8.7%.

(f) Or 3.3% Alternative Minimum Tax. An exemption of \$5,000 is allowed.

(g) Capital gains are taxed at 4%. There is also an alternative tax of 0.5% of gross annual sales.

(h) Minimum tax is \$20. An additional tax of \$10 is imposed on each return.

(i) Includes a 2.5% personal property replacement tax.

(k) Fifty percent of the federal income tax is deductible.

(l) Plus a surtax of 3.35% (2.125% for banks) taxable income in excess of \$50,000 (\$25,000).

(m) Or a 27% tax on Federal Alternative Minimum Taxable Income.

(n) Rate includes a 14% surtax, as does the following: an additional tax of \$7.00 per \$1,000 on taxable tangible property (or net worth allocable to state, for intangible property corporations); minimum tax of \$456.

(o) Plus a 5.8% tax on any Alternative Minimum Taxable Income over the base tax.

(p) A 7% tax on taxpayers using water's edge combination. Minimum tax is \$50.

(q) Plus a 0.50 percent tax on the enterprise base (total compensation, interest and dividends paid). Business profits tax imposed on both corporations and unincorporated associations.

(r) The rate reported in the table is the corporation business franchise tax rate. The minimum tax is \$500. An Alternative Minimum Assessment based on Gross Receipts applies if greater than corporate franchise tax. Corporations not subject to the franchise tax are subject to a 7.25% income tax. Banking and financial corporations are subject to the franchise tax. Corporations with net income under \$100,000 are taxed at 6.5%. The tax on S corporations is being phased out through 2007. The tax rate on a New Jersey S corporation that has entire net income not subject to federal corporate income tax in excess of \$100,000 will remain at 1.33% for privilege periods ending on or before June 30, 2006. The rate will be 0.67% for privilege periods ending on or after July 1, 2006, but on or before June 30, 2007; and there will be no tax imposed for privilege periods ending on or after July 1, 2007. The tax on S corporation with entire net income not subject to federal corporate income tax of \$100,000 or less is eliminated for privilege periods ending on or after July 1, 2007.

(s) Or 1.78 mills per dollar of capital (up to \$350,000); or a 2.5% alternative minimum tax; or a minimum tax of \$1,500 to \$100 depending on payroll size; if any of these is greater than the tax computed on net income. Small corporations with income under \$290,000 are subject to lower rates of tax on net income. An additional tax of 0.9 mills per dollar of subsidiary capital is imposed on corporations. For banks, the alternative bases of tax are 3% of alternative net income; or up to 1/50th mill of taxable assets; or a minimum tax of \$250.

(t) Financial institutions are also subject to a tax equal to \$30 per one million in assets.

(u) Or 4.0 mills time the value of the taxpayer's issued and outstanding share of stock with a maximum payment of \$150,000. An additional litter tax is imposed equal to 0.11% on the first \$50,000 of taxable income, 0.22% on income over \$50,000; or 0.14 mills on net worth.

(v) For banks, the alternative tax is \$2.50 per \$10,000 of capital stock (\$100 minimum).

(w) Savings and Loans are taxed at a 6% rate.

(x) State and national banks subject to the state's franchise tax on net capital is exempt from the income tax.

(y) Minimum tax is \$100. Includes surtax.

ATTACHMENT B: TAX ON INTANGIBLES

Appendix A. Tax Treatment of Personal and Intangible Property, by State						
State/ Jurisdiction	Personal Property Taxable?		Comments	Intangible Property Taxable?		Comments
	Yes	No		Yes	No	
Alabama	✓			✓		Specific intangibles, such as corporate shares, bonds and hoarded money are taxable
Alaska	✓				✓	
Arizona	✓				✓	
Arkansas	✓				✓	
California	✓				✓	
Colorado	✓		The first \$2,500 is exempt		✓	
Connecticut	✓				✓	
Delaware		✓	Only property of captive insurance companies is taxable		✓	
Florida	✓			✓		State tax on intangible property of 1 mill
Georgia	✓		The first \$500 is exempt		✓	
Hawaii		✓			✓	
Idaho	✓				✓	
Illinois		✓			✓	
Indiana	✓				✓	
Iowa		✓	Some items of personal property are deemed to be real property		✓	Intangible tax levied only on credit unions and loan agencies
Kansas	✓				✓	
Kentucky	✓			✓		Specified property is taxable
Louisiana	✓				✓	Bank stock, insurance company credits, loan and finance company credits, and public service property are excluded from the intangibles exemption
Maine	✓				✓	
Maryland		✓	Only business property greater than \$10,000 located at an individual's home is taxable		✓	
Massachusetts	✓				✓	
Michigan	✓				✓	
Minnesota	✓		Specified items are taxable		✓	
Mississippi	✓			✓		Specified property is taxable
Missouri	✓				✓	
Montana	✓				✓	
Nebraska		✓	Only depreciable business property or property used for the production of income that has a life span of more than one year is taxable		✓	

Appendix A. Tax Treatment of Personal and Intangible Property, by State
(continued)

State/ Jurisdiction	Personal Property Taxable?		Comments	Intangible Property Taxable?		Comments
	Yes	No		Yes	No	
Nevada	✓				✓	
New Hampshire		✓			✓	
New Jersey		✓	Only personal property of certain utilities and petroleum refineries is taxable		✓	
New Mexico	✓		Specified items are taxable		✓	
New York		✓			✓	
North Carolina		✓	Non-business property is not taxable		✓	
North Dakota	✓		Specified items are taxable		✓	
Ohio		✓	Only business property in excess of \$10,000 is taxable	✓		Intangibles held by an intangibles dealer are taxable
Oklahoma	✓		Counties may enact a full exemption		✓	
Oregon		✓	Only personal property used in a trade or business is taxable		✓	
Pennsylvania		✓		✓		Specified intangibles are taxable
Rhode Island	✓				✓	
South Carolina	✓				✓	
South Dakota		✓	Only personal property of centrally assessed utilities is taxable		✓	
Tennessee		✓	Only personal property used in a trade or business is taxable		✓	Only certain intangibles of insurance companies, loan and investment companies and cemetery companies are taxable
Texas		✓	Unless a locality elects otherwise, only income – producing personal property is taxable		✓	Only certain intangibles of insurance companies and savings and loan associations are taxable
Utah	✓				✓	
Vermont	✓				✓	
Virginia	✓		Local governments may enact an exemption		✓	
Washington	✓			✓		
West Virginia	✓			✓		Specified intangible property is taxable, although the tax is being phased out
Wisconsin		✓	Only business property is taxable		✓	

Appendix A. Tax Treatment of Personal and Intangible Property, by State (continued)						
State/ Jurisdiction	Personal Property Taxable?		Comments	Intangible Property Taxable?		Comments
	Yes	No		Yes	No	
Wyoming	✓				✓	
District of Columbia		✓	Only property used in a trade of business		✓	
Source: Commerce Clearing House, <i>State Tax Guide</i> , 2001.						

ATTACHMENT C: COLORADO

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Source:

Colorado Statutes/TITLE 39 TAXATION/PROPERTY TAX/Exemptions/ARTICLE 3 EXEMPTIONS/PART 1 PROPERTY EXEMPT FROM TAXATION/39-3-118. Intangible personal property - exemption.

39-3-118. Intangible personal property - exemption.

Intangible personal property shall be exempt from the levy and collection of property tax. For purposes of this section, "intangible personal property" shall include, but is not limited to, computer software.

Source: L. 89: Entire article R&RE, p. 1476, § 1, effective April 23. L. 90: Entire section amended, p. 1715, § 2, effective May 2.

Editor's note: This section was contained in an article that was repealed and reenacted in 1989. Provisions of this section, as it existed in 1989, are similar to those contained in 39-3-101 (1)(i) as said section existed in 1988, the year prior to the repeal and reenactment of this article.

Cross references: For the legislative declaration contained in the 1990 act amending this section, see section 1 of chapter 281, Session Laws of Colorado 1990.

ANNOTATION

C.J.S. See 84 C.J.S., Taxation, §§ 158-161.

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Source:

Colorado Statutes/TITLE 39 TAXATION/SPECIFIC TAXES/Income Tax/ARTICLE 22 INCOME TAX/PART 6 PROCEDURE AND ADMINISTRATION/39-22-611. Property exempt from ad valorem taxes.

39-22-611. Property exempt from ad valorem taxes.

Notwithstanding any other provisions of law, all intangible personal property, whether or not owned by a resident of Colorado, and whether or not such property or evidence thereof is situated or held or has its legal situs within the state, shall be exempt from ad valorem tax imposed by the state of Colorado, or by any political subdivision thereof; but nothing in this section shall be construed to repeal, or in any way affect, the use or inclusion of intangible property other than licenses granted by the federal communications commission to a wireless carrier, as defined in section 29-11-101 (14), C.R.S., as a factor in arriving at the valuation of public utility property assessed by the property tax administrator under provisions of articles 1 to 13 of this title.

Source: L. 64: R&RE, p. 795, § 1. **C.R.S. 1963:** § 138-1-75. **L. 98:** Entire section amended, p. 1267, § 2, effective June 1.

ANNOTATION

Colorado's intangible property tax exemption singled out railroad as part of an isolated and targeted group for discriminatory tax treatment in violation of § 306(1)(d) of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as interpreted by the supreme court in *Department of Rev. of Oregon v. ACF Indus., Inc.*, 510 U.S. 332 (1994); *Burlington Northern R.R. v. Huddleston*, 94 F.3d 1413 (10th Cir. 1996).

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Source:

Colorado Statutes/TITLE 39 TAXATION/PROPERTY TAX/Valuation and Taxation/ARTICLE 4 VALUATION OF PUBLIC UTILITIES/39-4-102. Valuation of public utilities.

39-4-102. Valuation of public utilities.

(1) The administrator shall determine the actual value of the operating property and plant of each public utility as a unit, giving consideration to the following factors and assigning such weight to each of such factors as in the administrator's judgment will secure a just value of such public utility as a unit:

(a) The tangible property comprising its plant, whether the same is situated within this state or both within and without this state, exclusive of any tangible property situated without this state which is not directly connected with the business in which such public utility is engaged within this state;

(b) Its intangibles, such as special privileges, franchises, contract rights and obligations, and rights-of-way; except that licenses granted by the federal communications commission to a wireless carrier, as defined in section 29-11-101 (14), C.R.S., shall not be considered, nor shall the value of such licenses be reflected, in the administrator's valuation of the carrier's tangible property;

(c) Its gross and net operating revenues during a reasonable period of time not to exceed the most recent five-year period, capitalized at indicative rates;

(d) The average market value of its outstanding securities during the preceding calendar year, if such market value is determinable;

(e) When determining the actual value of a renewable energy facility that primarily generates electricity, the administrator shall consider the additional incremental cost per kilowatt of the construction of the renewable energy facility over that of the construction cost of a comparable nonrenewable energy facility that primarily generates electricity to be an investment cost and shall not include such additional incremental cost in the valuation of the facility. For purposes of this paragraph (e), "renewable energy" has the meaning provided in section 40-1-102 (6), C.R.S.

(2) If, in the judgment of the administrator, the books and records of any public utility accurately reflect its tangible property, its intangibles, and its earnings within this state during the most recent five-year period, the administrator may determine from such books and records the actual value of its property and plant within this state and need not determine the entire value of its property and plant both within and without this state.

(3) (a) For property tax years 1982 through 1986, there shall be applied to the actual value of each public utility an equalization factor to adjust the actual value for the current year of assessment as determined by the administrator pursuant to subsections (1) and (2) of this section to the public utility's level of value in 1981.

(b) For property tax years commencing on or after January 1, 1987, there shall be applied to the actual value of each public utility an equalization factor to adjust the actual value for the current year of assessment as determined by the administrator pursuant to subsections (1) and (2) of this section to the public utility's level of value in the appropriate year that is prescribed in section 39-1-104 (10.2) and that is used to determine the actual value of properties that are subject to said applicable subsection.

(c) Appraisal procedures, instructions, and factors utilized by the administrator in carrying out the provisions of this section shall be subject to legislative review, the same as rules and regulations, pursuant to section 24-4-103 (8) (d), C.R.S.

(d) The administrator shall certify to the public utility any difference in valuation resulting from the application of this section. Said certification shall be part of the evidence presented in determining rate structures by any applicable rate-setting body.

Source: L. 64: R&RE, p. 688, § 1. C.R.S. 1963: § 137-4-2. L. 67: p. 948, § 12. L. 70: p. 382, § 15. L. 81: (3) added, p. 1847, § 2, effective January 1, 1982. L. 83: (3)(a) and (3)(b) amended, p. 1496, § 4, effective April 28. L. 84: (3)(a) and (3)(b) amended, p. 989, § 3, effective February 23. L. 91: (3)(b) amended, p. 2005, § 4, effective June 6. L. 95: (3)(b) amended, p. 8, § 3, effective March 9. L. 98: (1) (b) amended, p. 1267, § 1, effective June 1. L. 2001: IP(1) amended and (1)(e) added, p. 1523, § 1, effective August 8.

ANNOTATION

Am. Jur.2d. See 71 Am. Jur.2d, State and Local Taxation, §§ 378-381.

C.J.S. See 84 C.J.S., Taxation, §§ 547, 548, 556.

No statutory conflict. The requirement of this section that a public utility's intangibles be considered when valuing such utility's operating property and plant as a unit does not necessarily conflict with the general exemption for intangible personal property pursuant to § 39-3-101 (1)(i). U.S. Transmission Sys. v. Board of Assmt. Appeals, 715 P.2d 1249 (Colo. 1986) (decided under former law).

Board of assessment appeals was not required, as a matter of law, to include financing costs in the valuation of plaintiff's property. The method by which the property tax administrator arrived at her valuation was authorized under this section. Colorado Interstate Gas Co. v. Huddleston, 28 P.3d 958 (Colo. App. 2000).

"Operating property and plant" includes the tangible property comprising the plant and the intangible rights of the utility that directly contribute to the utility's operations. U.S. Transmission Sys. v. Board of Assmt. Appeals, 715 P.2d 1249 (Colo. 1986).

Property taxation of a public utility in Colorado is not precluded simply because the only portion of the public utility's operating property and plant found within this state is the intangible rights derived from rental of telephone circuits. U.S. Transmission Sys. v. Board of Assmt. Appeals, 715 P.2d 1249 (Colo. 1986).

Telephone circuits leased by petitioner from other telecommunication companies in Colorado constituted intangible rights held by a public utility as part of its operating property and plant and as such were property considered in determining petitioner's property tax assessment. U.S. Transmission Sys. v. Board of Assmt. Appeals, 715 P.2d 1249 (Colo. 1986).

Value of the "operating property and plant". The statute reflects the view that the true measure of value of the property of a public utility is its worth as an integrated and operating unit rather than the sum of the values of the various components making up that unit. Therefore, the fact that petitioner's property rights in the circuits leased from other telecommunication companies has no independent market value is not dispositive of such property's assessment value. U.S. Transmission Sys. v. Board of Assmt. Appeals, 715 P.2d 1249 (Colo. 1986).

The operating property and plant to be valued as a unit consists of the public utility's property and plant used in carrying on its business. Such valuation also includes intangible rights derived from other property and plant even if owned by a parent company or other subsidiary if they contribute directly to the operation of the public utility as an ongoing concern. United Parcel Serv. of America, Inc. v. Huddleston, 981 P.2d 223 (Colo. App. 1999).

The general assembly did not intend to equate "actual value" with "market value". Actual value is not the same as market value and the terms cannot be used interchangeably. Colorado Interstate Gas Co. v. Huddleston, 28 P.3d 958 (Colo. App. 2000).

The general assembly's intent is apparent from its use of the term "actual value" when referring to the overall property value, and use of "market value" to refer only to the value of a public utilities outstanding securities during the calendar year preceding valuation. Colorado Interstate Gas Co. v. Huddleston, 28 P.3d 958 (Colo. App. 2000).

Applied in Salt River Project v. Board of Assmt. Appeals, 719 P.2d 368 (Colo. App. 1986).

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ATTACHMENT D: IDAHO



Idaho Statutes

TITLE 63
REVENUE AND TAXATION
CHAPTER 6

EXEMPTIONS FROM TAXATION

63-602L. PROPERTY EXEMPT FROM TAXATION -- INTANGIBLE PERSONAL PROPERTY.

(1) The following intangible personal property is exempt from taxation: capital stock and bonds. The deposits in national banks, state banks, and savings and loan associations. Shares and accounts of savings and loan associations, credit unions or associations organized under the laws of the state of Idaho for the purpose of accumulating the savings and funds of their members and lending the same to their members. Goodwill, customer lists, contracts and contract rights, patents, trademarks, custom computer programs as defined in section 63-3616, Idaho Code, copyrights, trade secrets, franchises, licenses, rights-of-way which are possessory only and not accompanied by title.

(2) The commission shall promulgate rules which shall provide for the exclusion of exempt intangible personal property from taxable value of operating property. Such rules shall allow each taxpayer the right to elect one (1) of the following three (3) methods for exclusion of exempt intangible personal property from its taxable value:

- (a) Separate exclusion of the exempt intangible personal property at the system level value; or
- (b) Separate exclusion of the exempt intangible personal property at the state allocated value; or
- (c) Exclusion of the exempt intangible personal property by valuation of only tangible personal property and nonexempt intangible personal property using valuation models which do not impound or include values of the exempt intangible personal property.

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Total Income Per Acre \$167.25	Expenses
TOTAL EXPENSE PER ACRE = \$	71.90
NET INCOME = \$	95.36
CAP RATE =	9.35%
VALUE PER ACRE =	\$1,019.47

(4-5-00)

05. Cross Reference. For the years 1999 and 2000, see Rule 165 of these rules. Beginning in the year 2001, see Rule 645 of these rules. (4-5-00)

614. VALUATION OF CHRISTMAS TREE FARMS (RULE 614).

Christmas tree farms shall be categorized on the tax rolls under the applicable agricultural category. Section 63-1708, Idaho Code, shall only apply to Christmas trees harvested from designated lands. (7-1-97)

615. PROPERTY EXEMPT FROM TAXATION - CERTAIN INTANGIBLE PERSONAL PROPERTY (RULE 615).

01. Definitions. The following definitions apply to the exemption for certain intangible personal property. (1-1-99)

a. Contracts and contract rights. Contracts and contract rights are enforceable agreements, which establish mutual rights and responsibilities, and rights created under such agreements. (1-1-99)

b. Copyrights. Copyrights are rights granted to the author or originator of literary or artistic productions, by which he or she is invested with the sole and exclusive privilege of making, publishing or selling copies for a specified time. (1-1-99)

c. Custom computer programs. Custom computer programs means those programs defined in Section 63-3616, Idaho Code. (1-1-99)

d. Customer lists. Customer lists are proprietary lists containing information about a business enterprise's customers. (1-1-99)

e. Franchises. Franchises are special privileges. (1-1-99)

f. Goodwill. Goodwill is the expectation of continued public patronage of a business. Goodwill is the ability of a business to generate income in excess of a normal rate due to such things as superior managerial skills, superior market position, favorable community and customer reputation and high employee morale. (1-1-99)

g. Licenses. Licenses are permissions to do acts, which are not allowed without such permissions. (1-1-99)

h. Method A. Method A is the method by which the value of exempt intangible personal property is excluded from the value of operating property by subtracting the market value of exempt intangible personal property from the market value of the operating property at the system level. (1-1-99)

i. Method B. Method B is the method by which the value of exempt intangible personal property is excluded from the value of operating property by subtracting the market value of exempt intangible personal property from the market value of the operating property at the state level. (1-1-99)

j. Method C. Method C is the method by which the value of exempt intangible personal property is excluded from the value of operating property by using valuation models which value only the nonexempt assets. (1-1-99)

k. Patents. Patents are grants from the government conveying and securing the exclusive right to make, use and sell inventions. (1-1-99)

l. Rights-of-way which are possessory only and not accompanied by title. Rights-of-way, which are possessory only and not accompanied by title, are easements by which grantees acquire only the rights to pass over or to access for installation or maintenance, without acquiring exclusive use of the rights-of-way. (1-1-99)

m. Trademarks. Trademarks are marks of authenticity, through which products of particular manufacturers or vendible commodities of particular merchants may be distinguished from those of others. (1-1-99)

n. Trade secrets. Trade secrets are formulas, patterns, compilations, programs, devices, methods, techniques or processes, deriving independent economic values from not being generally known by other persons who can obtain economic values from disclosure or use. Trade secrets are the subjects of efforts that are reasonable to maintain secrecy. (1-1-99)

02. Tangible Property Value Not Affected By Intangible Personal Property Value. The values of the exempt intangible personal properties shall not affect the values of any tangible properties or the value of the attributes of any tangible properties, regardless of the role of the intangible personal properties in the use of the tangible properties. The exempt values shall not include any values attributable to availability of a skilled work force, condition of surrounding property, geographic features, location, rights-of-way, accompanied by title, view, zoning, and attributes or characteristics of real properties. (1-1-99)

03. Operating Property Election, Reporting And Methods. The following apply to operating property for the identification of valuation methods to be used by the State Tax Commission, election of Method A, Method B or Method C by the property owners, reporting by owners and valuation using Method C. (1-1-99)

a. Identification of valuation methods. When the State Tax Commission mails the blank Operators' Statements to the property owners, the State Tax Commission shall identify proposed changes in valuation methods compared to those relied on in the prior year. (1-1-99)

b. Election default. In the event of default of the taxpayer to make an election, the State Tax Commission shall use the method proposed in the notice accompanying the Operator's Statement. (1-1-99)

c. Election of exclusion method. When submitting the Operator's Statement, the owner has the right to elect the method for exclusion of the values of the exempt intangible personal properties from the operating property value. (1-1-99)

d. Amending Election. An owner may amend the elected method if written notice is received at least seven (7) business days prior to a hearing under Rule 407 of these rules. (1-1-99)

e. Reporting. The State Tax Commission shall consider the value and supporting data provided by the owners. If no supporting intangibles valuation information is provided by the owners, known exempt intangible personal property will be subtracted or will not be impounded in the value. (1-1-99)

f. Valuation using Method C. When the owner elects Method C, the State Tax Commission shall give primary consideration to the cost less depreciation model, without regulatory adjustment, in valuing tangible personal property and nonexempt intangible personal property. Only if this model fails to produce market value of the tangible personal property and nonexempt intangible personal property, shall the State Tax Commission consider other appropriate valuation models. (1-1-99)

04. Personal Property Reporting For Locally Assessed Property. The exemption for custom software, contracts and contract rights shall be claimed by scheduling such property on the owner's personal property declaration form. (1-1-99)

616. -- 617. (RESERVED).

ATTACHMENT E: MONTANA

Montana Code Annotated 2003

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15-6-218. Intangible personal property exemption. (1) Except as provided in subsection (3), intangible personal property is exempt from taxation.

(2) For the purposes of this section, "intangible personal property" means personal property that is not tangible personal property and that:

(a) has no intrinsic value but is the representative or evidence of value, including but not limited to certificates of stock, bonds, promissary notes, licenses, copyrights, patents, trademarks, contracts, software, and franchises; or

(b) lacks physical existence, including but not limited to goodwill.

(3) The exemption for intangible personal property that is centrally assessed, other than property under [15-23-101\(4\)](#) and (5), must be phased in over 3 years beginning in tax year 2000. Ten percent of the intangible personal property is exempt for tax year 2000, and two-thirds of the intangible personal property is exempt for tax year 2001. Centrally assessed intangible personal property is fully exempt from taxation in tax year 2002 and thereafter.

(4) The department shall adopt administrative rules prior to valuation determinations for tax year 2000 that specify the valuation methodology for centrally assessed intangible personal property. To the extent that the unit value includes intangible personal property, that value must be removed from the unit value according to the provisions in subsection (3).

(5) The department shall report intangible personal property annually to the revenue and transportation interim committee of the Montana legislature and to the Montana legislature meeting in the year 2001.

History: En. Sec. 1, Ch. 583, L. 1999.

ATTACHMENT F: NEBRASKA

77-105

Tangible personal property, intangible personal property, defined.

The term tangible personal property includes all personal property possessing a physical existence, excluding money. The term intangible personal property includes all other personal property, including money.

Source:

Laws 1921, c. 133, art. I, § 4, p. 545; C.S.1922, § 5811; C.S.1929, § 77-104; Laws 1933, c. 156, § 2, p. 592; C.S.Supp.,1941, § 77-104; R.S.1943, § 77-105; Laws 1991, LB 829, § 6.

77-121

Taxable property, defined.

Taxable property shall mean any real or tangible personal property subject to tax pursuant to law and not exempt from tax.

Source:

Laws 1992, LB 1063, § 50; Laws 1992, Second Spec. Sess., LB 1, § 48.

77-201

Property taxable; valuation; classification.

(1) Except as provided in subsections (2) and (3) of this section, all real property in this state, not expressly exempt therefrom, shall be subject to taxation and shall be valued at its actual value.

(2) Agricultural land and horticultural land as defined in section 77-1359 shall constitute a separate and distinct class of property for purposes of property taxation, shall be subject to taxation, unless expressly exempt from taxation, and shall be valued at eighty percent of its actual value.

(3) Agricultural land and horticultural land actively devoted to agricultural or horticultural purposes which has value for purposes other than agricultural or horticultural uses and which meets the qualifications for special valuation under section 77-1344 shall

constitute a separate and distinct class of property for purposes of property taxation, shall be subject to taxation, and shall be valued for taxation at eighty percent of its special value as defined in section 77-1343 and at eighty percent of its recapture value as defined in section 77-1343 when the land is disqualified for special valuation under section 77-1347.

(4) Tangible personal property, not including motor vehicles registered for operation on the highways of this state, shall constitute a separate and distinct class of property for purposes of property taxation, shall be subject to taxation, unless expressly exempt from taxation, and shall be valued at its net book value. Tangible personal property transferred as a gift or devise or as part of a transaction which is not a purchase shall be subject to taxation based upon the date the property was acquired by the previous owner and at the previous owner's Nebraska adjusted basis. Tangible personal property acquired as replacement property for converted property shall be subject to taxation based upon the date the converted property was acquired and at the Nebraska adjusted basis of the converted property unless insurance proceeds are payable by reason of the conversion. For purposes of this subsection, (a) converted property means tangible personal property which is compulsorily or involuntarily converted as a result of its destruction in whole or in part, theft, seizure, requisition, or condemnation, or the threat or imminence thereof, and no gain or loss is recognized for federal or state income tax purposes by the holder of the property as a result of the conversion and (b) replacement property means tangible personal property acquired within two years after the close of the calendar year in which tangible personal property was converted and which is, except for date of construction or manufacture, substantially the same as the converted property.

Source:

Laws 1903, c. 73, § 12, p. 390; R.S.1913, § 6300;
Laws 1921, c. 133, art. II, § 1, p. 546; C.S.1922, § 5820;
C.S.1929, § 77-201; Laws 1939, c. 102, § 1, p. 461;
C.S.Supp.,1941, § 77-201; R.S.1943, § 77-201;
Laws 1953, c. 265, § 1, p. 877; Laws 1955, c. 289, § 2, p. 918;

Laws 1957, c. 320, § 2, p. 1138; Laws 1959, c. 353, § 1, p. 1244;

Laws 1979, LB 187, § 191; Laws 1985, LB 30, § 2;

Laws 1985, LB 271, § 2; Laws 1986, LB 816, § 1; Laws 1989, LB 361, § 5;

Laws 1991, LB 404, § 2; Laws 1991, LB 320, § 2;

Laws 1992, LB 1063, § 52; Laws 1992, Second Spec. Sess., LB 1, § 50;

Laws 1997, LB 269, § 34; Laws 1997, LB 270, § 11;

Laws 1997, LB 271, § 38; Laws 2004, LB 973, § 6.

Operative date April 2, 2004.

ATTACHMENT G: SOUTH DAKOTA

10-4-1. Property generally subject to taxation

All real property in this state and the property of corporations existing or hereafter created, and the property of all banks or banking companies existing or hereafter created, except such as is hereinafter expressly excepted, is subject to taxation; and such property, or the value thereof, shall be entered in the list of taxable property for that purpose, in the manner prescribed in chapter 10-6.

Source: SL 1897, ch 28, § 2; RPolC 1903, § 2053; RC 1919, § 6667; SDC 1939, § 57.0310; SL 1992, ch 80, § 11.

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10-4-2. Definition of real property for ad valorem taxation purposes

Real property, for the purposes of ad valorem taxation, includes:

- (1) Land and all rights and privileges thereto belonging;
- (2) Improvements to land and all rights and privileges thereto belonging, consisting of items permanently affixed to and becoming part of the real estate. The term, permanently affixed, refers to the economic life of the improvement rather than perpetuity;
- (3) Mines, minerals, and quarries;
- (4) Buildings and structures which are on foundations, and improvements to buildings and structures including any heating system, air conditioning, ventilation, sanitation, lighting, or plumbing which is part of the building or structure; and
- (5) Mobile homes as defined in subdivision 32-3-1(8) which are on foundations.

For assessment purposes, a structure is anything constructed or erected from an assembly of materials, which requires a permanent location on or in the ground.

For assessment purposes, a building is a structure designed to stand permanently and cover a space of land which is enclosed by walls and is covered with a roof.

Source: SDC 1939, § 57.0312; SL 1974, ch 88, § 3; SL 1987, ch 29, § 3; SL 1992, ch 74, § 1; SL 1997, ch 51, § 1.

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RAILROADS

10-28-2. Assets included in operating property. The term "operating property" shall mean and include all tracks and right-of-way, station grounds, all structures, and improvements on such right-of-way or station grounds, all rights and franchises, all rolling stock and car equipment, and all other property, real or personal, tangible or intangible, connected with or used in the operation of the railroad, including real estate contiguous to railroad right-of-way or station grounds held for reasonable expansion or future development.

Source: SL 1915, ch 100, § 5; RC 1919, § 6600; SL 1923, ch 112; SDC 1939, § 57.1301.

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10-28-1. Secretary of revenue and regulation to assess operating property. All property, real and personal, belonging to any railroad company in this state actually and necessarily used in the operation of its line or lines of railway in this state shall be considered as "operating property," and shall be assessed for the purposes of taxation by the secretary of revenue and regulation, and not otherwise.

Source: SDC 1939, § 57.1301; SL 2003, ch 272, § 82.

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TELEPHONE SERVICE

10-33-21. Companies taxed on gross receipts--Rate--Minimum tax

All persons, corporations, cooperatives, and associations engaged in furnishing and providing telephone and exchange service comprising rental and toll service by means of wired circuits and otherwise and whose annual gross receipts are less than fifty million dollars shall be taxed on the basis of gross receipts at the rate of four percent.

However, no telephone company operating in this state may be taxed less than an amount equal to fifty cents per year per telephone serviced. Further, each telephone company that was taxed in the five percent tax category for the calendar year 2001 shall pay an amount of tax to each school district of not less than the tax received by such school district in 2002 for the years 2003 and 2004.

Source: SL 1955, ch 423, § 1; SDC Supp 1960, § 57.1808; SL 1965, ch 287, § 2; SL 1974, ch 94, § 1; SL 1980, ch 86; SL 2002, ch 58, § 1; SL 2003, ch 272, § 82; SL 2004, ch 89, § 1.

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TELECOMMUNICATIONS

10-33A-4. Tax imposed on gross receipts of certain telecommunications services-- Amount--Mobile telecommunications services excepted

There is hereby imposed a tax of four percent upon the gross receipts of telecommunications services, as defined in § 10-33A-2, that originate and terminate in the same state and are billed to a customer with a place of primary use in this state or are deemed to have originated or been received in this state and to be billed or charged to a service address in this state if the customer's place of primary use is located in this state regardless of where the service actually originates or terminates. Notwithstanding any other provision of this chapter and for purposes of the tax imposed by this section, the tax imposed upon mobile telecommunication services shall be administered in accordance with 4 U.S.C. §§ 116-126 as of July 28, 2000.

Source: SL 2003, ch 58, § 4.

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10-33A-19. Certain property of telecommunications company exempt from property taxes

Any real and personal property owned by a telecommunications company that is used or intended for use in furnishing and providing telecommunication services is exempt from real and personal property taxes levied by the state, counties, municipalities, townships, or other political subdivisions of the state.

Source: SL 2003, ch 58, § 19.

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RURAL ELECTRICS

10-36-1. Companies subject to tax--Classification of personal property for taxation. The personal property of persons, corporations, cooperatives, and associations engaged in the distribution or transmission of electric energy solely within the United States for consumption principally in rural areas is hereby expressly classified for the purpose of taxation.

Source: SL 1941, ch 363, § 1; SDC Supp 1960, § 57.19B01; SL 1981, ch 94, § 1; SL 1982, ch 97.

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10-36-2. Types of property subject to taxation. The term, personal property, used in this chapter shall include but shall not be limited to the following property used or intended for use by a company in connection with the distribution or transmission of electric energy: all poles, wires, lines, transformers, meters, machinery, fixtures, and all attachments and appurtenances thereto.

Source: SL 1941, ch 363, § 6; SDC Supp 1960, § 57.19B06; SL 1981, ch 94, § 2.

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10-36-6. Tax levied on gross receipts--Dividends or distributions to patrons not included in gross receipts--Credit. There is levied on each company, as of May first of each year, a tax of two percent upon the gross receipts derived by it from the furnishing of electric energy during the preceding calendar year. Gross receipts for taxation purposes may not include dividends or distributions to patrons whether paid or credited.

Each company taxed pursuant to § 10-36-6 shall receive a credit against the gross receipts tax due and payable if it has contracted jointly or severally for the use of property in this state owned, held under lease, or otherwise by a light or power company defined in § 10-35-2, a consumer power district organized pursuant to chapter 49-35, or a municipal power agency organized pursuant to chapter 9-41A if the property is assessed for taxation pursuant to chapter 10-35, subject to an excise tax as provided in § 49-37-13, or taxed as provided in § 9-41A-36. A company taxed pursuant to § 10-36-6 may deduct as a credit from the gross receipts tax to be paid, that portion of the taxes included in the payments by the company to such organizations for the use of the property described in the contract.

Source: SL 1941, ch 363, § 3; SDC Supp 1960, § 57.19B03; SL 1987, ch 92, § 2; SL 1994, ch 88.

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10-36-11. Tax in lieu of other tax on operating property--Sales and use taxes. The tax imposed by § 10-36-6 is in lieu of any and all taxes levied by the state, counties, municipalities, townships, school districts, or other political subdivisions of the state on the personal property of the company located in any such rural area and used or intended for use in the distribution or transmission of electric energy, but is not in lieu of the retail occupational sales tax or the use tax, and this chapter does not exempt such companies from the payment of the retail occupational sales tax or use tax.

Source: SL 1941, ch 363, § 3; SDC Supp 1960, § 57.19B03; SL 1981, ch 94, § 4; SL 1983, ch 98, § 2; SL 1992, ch 60, § 2.

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FINANCIAL INSTITUTIONS

10-43-2. Tax imposed on financial institutions. An annual tax is hereby imposed on every financial institution, except those institutions organized under the laws of the United States, doing business in this state for the grant to it of the privilege of transacting or for the actual transaction by it, of business in this state during any part of its tax year.

Source: SL 1939, ch 263, §§ 3, 4; SDC Supp 1960, §§ 57.30A03, 57.30A04; SDCL, § 10-43-3; SL 1977, ch 96, § 2.

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10-43-2.1. Tax imposed on national banks, production credit and savings and loan associations. An annual tax is hereby imposed upon every national banking corporation or production credit association or savings and loan association doing business within this state, according to or measured by its net income, to be computed in the manner provided in this chapter, on the basis of its net income during any part of its tax year.

Source: SL 1939, ch 263, § 3; SDC Supp 1960, § 57.30A03; SDCL, § 10-43-2; SL 1977, ch 96, § 2.

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INSURANCE

10-43-5. Income tax in lieu of other taxes. The tax referred to in §§ 10-43-2 and 10-43-2.1 is in lieu of all other taxes and licenses, state, county and local, except taxes upon the institutions' real property, taxes upon the institutions' leased sites, and tangible personal property not normally used in extension of credit or acceptance of deposits and the retail occupational sales tax or the use tax on tangible personal property; provided, however, that tangible personal property acquired by the financial institution through a foreclosure proceeding shall be exempt from such other taxes. The institutions taxed by §§ 10-43-2 and 10-43-2.1 are exempt from other net income taxation by this state.

Source: SL 1939, ch 263, §§ 8, 10; SL 1943, ch 300; SDC Supp 1960, §§ 57.30A08, 57.30A10; SL 1977, ch 96, § 3; SL 1983, ch 356, § 6.

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ATTACHMENT H: UTAH

59-2-102 (Superseded 01/01/05). Definitions.

As used in this chapter and title:

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

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

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

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

(5) "Airline" means any air carrier operating interstate routes on a scheduled basis which offers to fly passengers or cargo on the basis of available capacity on regularly scheduled routes.

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

(7) "Certified revenue levy" means a property tax levy that provides the same amount of ad valorem property tax revenue as was collected for the prior year, plus new growth, but exclusive of revenue from collections from redemptions, interest, and penalties.

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

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

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

(c) vehicles which are:

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

(ii) used or licensed as taxicabs or limousines;

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

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

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

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

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

(i) a county; and

(ii) a school district.

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

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

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

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

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

(a) that became a final and unappealable judgment or order no more than 14 months prior to the day on which the notice required by Subsection 59-2-919(4) is required to be mailed; and

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

(i) \$5,000; or

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

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

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

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

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

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

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

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

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

(15) "Geothermal resource" means:

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

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

(16) (a) Except as provided in Subsection (16)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

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

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

(ii) removal of the item would:

(A) cause substantial damage to the item; or

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

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (16)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (16)(a); and

(B) installed solely to serve the operation of the item described in Subsection (16)(a); and

(ii) an item described in Subsection (16)(a) that:

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

(B) remains located on the land.

(c) Notwithstanding Subsections (16)(a) and (b), "improvement" does not include:

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

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

(A) for stability only; or

(B) for an obvious temporary purpose;

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

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

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

(A) the land; or

(B) the item; or

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

(17) "Intangible property" means:

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

(i) moneys;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents; or

(b) a low-income housing tax credit.

(18) "Low-income housing tax credit" means:

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

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

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

(ii) Section **59-10-129**.

(19) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(20) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(21) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(22) (a) "Mobile flight equipment" means tangible personal property that is:

(i) owned or operated by an:

(A) air charter service;

(B) air contract service; or

(C) airline; and

(ii) (A) capable of flight;

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

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

(I) during multiple flights;

(II) during a takeoff, flight, or landing; and

(III) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is

rotated:

- (A) at regular intervals; and
- (B) with an engine that is attached to the aircraft.
- (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."
- (23) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.
- (24) "Personal property" includes:
 - (a) every class of property as defined in Subsection (25) which is the subject of ownership and not included within the meaning of the terms "real estate" and "improvements";
 - (b) gas and water mains and pipes laid in roads, streets, or alleys;
 - (c) bridges and ferries;
 - (d) livestock which, for the purposes of the exemption provided under Section **59-2-1112**, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and
 - (e) outdoor advertising structures as defined in Section **72-7-502**.
- (25) (a) "Property" means property that is subject to assessment and taxation according to its value.
- (b) "Property" does not include intangible property as defined in this section.
- (26) "Public utility," for purposes of this chapter, means the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally

or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use. Public utility also means the operating property of any entity or person defined under Section **54-2-1** except water corporations.

- (27) "Real estate" or "real property" includes:
 - (a) the possession of, claim to, ownership of, or right to the possession of land;
 - (b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and
 - (c) improvements.
- (28) "Residential property," for the purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence. It does not include property used for transient residential use or condominiums used in rental pools.
- (29) For purposes of Subsection **59-2-801(1)(e)**, "route miles" means the number of miles calculated by the commission that is:
 - (a) measured in a straight line by the commission; and
 - (b) equal to the distance between a geographical location that begins or ends:
 - (i) at a boundary of the state; and
 - (ii) where an aircraft:
 - (A) takes off; or
 - (B) lands.
- (30) (a) "State-assessed commercial vehicle" means:
 - (i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or
 - (ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.
- (b) "State-assessed commercial vehicle" does not include vehicles used for hire which are specified in Subsection (8)(c) as county-assessed commercial vehicles.
- (31) "Taxable value" means fair market value less any applicable reduction allowed for residential

property under Section **59-2-103**.

(32) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(33) "Taxing entity" means any county, city, town, school district, special taxing district, or any other political subdivision of the state with the authority to levy a tax on property.

(34) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll. It includes tax books, tax lists, and other similar materials.

Amended by Chapter 162, 2004 General Session

Amended by Chapter 303, 2004 General Session

Amended by Chapter 243, 2004 General Session

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Last revised: Tuesday, July 13, 2004

59-2-103 (Superseded 01/01/05). Rate of assessment of property -- Residential property.

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

(2) Beginning January 1, 1995, the fair market value of residential property shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2.

(3) No more than one acre of land per residential unit may qualify for the residential exemption.

Amended by Chapter 90, 2004 General Session

59-2-1101. Exemption of certain property -- Proportional payments for government-owned property -- County legislative body authority to adopt rules or ordinances.

(1) (a) Except as provided in Subsection (1)(b) or (c), the exemptions, deferrals, and abatements authorized by this part may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (1)(a), if the claimant is a federal, state, or political subdivision entity under Subsection (2)(a), (b), or (c), the entity shall collect and pay a proportional tax based upon the length of time that the property was not owned by the entity.

(c) Notwithstanding Subsection (1)(a), a claimant may be allowed a veteran's exemption in accordance with Sections 59-2-1104 and 59-2-1105 regardless of whether the claimant is the owner of the property as of January 1 of the year the exemption is claimed if the claimant is:

(i) the unmarried surviving spouse of:

(A) a deceased disabled veteran as defined in Section 59-2-1104; or

(B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104;

or

(ii) a minor orphan of:

(A) a deceased disabled veteran as defined in Section 59-2-1104; or

(B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104.

(2) The following property is exempt from taxation:

(a) property exempt under the laws of the United States;

(b) property of the state, school districts, and public libraries;

(c) property of counties, cities, towns, special districts, and all other political subdivisions of the state, except as provided in Title 11, Chapter 13, Interlocal Cooperation Act;

(d) property owned by a nonprofit entity which is used exclusively for religious, charitable, or educational purposes;

(e) places of burial not held or used for private or corporate benefit;

(f) farm equipment and machinery;

(g) intangible property; and

(h) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103, in property providing additional project capacity, as defined in Section 11-13-103, on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(3) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part; and

(b) designate one or more persons to perform the functions given the county under this part.