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States' Differential Tax Assessment of Agricultural Land Statutes

Utah



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States' Differential Tax Assessment of Agricultural Land Statutes State of Utah

[Utah Code title 59, ch. 2, pt. 5](#) [Utah Code title 59, ch. 2, pt. 17](#)

Current with all laws through Ch. 1016 of 2018 Reg. Sess., and all propositions on 2018 ballot.

§ 59-2-501. Short title

This part is known as the “Farmland Assessment Act.”

§ 59-2-502. Definitions

As used in this part:

- (1) “Actively devoted to agricultural use” means that the land in agricultural use produces in excess of 50% of the average agricultural production per acre:
 - (a) as determined under Section 59-2-503; and
 - (b) for:
 - (i) the given type of land; and
 - (ii) the given county or area.
- (2) “Conservation easement rollback tax” means the tax imposed under Section 59-2-506.5.
- (3) “Identical legal ownership” means legal ownership held by:
 - (a) identical legal parties; or
 - (b) identical legal entities.
- (4) “Land in agricultural use” means:
 - (a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:
 - (i) forages and sod crops;
 - (ii) grains and feed crops;



- (iii) livestock as defined in Section 59-2-102;
 - (iv) trees and fruits; or
 - (v) vegetables, nursery, floral, and ornamental stock; or
 - (b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.
- (5) “Other eligible acreage” means land that is:
- (a) five or more contiguous acres;
 - (b) eligible for assessment under this part; and
 - (c) (i) located in the same county as land described in Subsection 59-2-503(1)(a); or
 - (ii) contiguous across county lines with land described in Subsection 59-2-503(1)(a) as provided in Section 59-2-512.
- (6) “Platted” means land in which:
- (a) parcels of ground are laid out and mapped by their boundaries, course, and extent; and
 - (b) the plat has been approved as provided in Section 10-9a-604 or 17-27a-604.
- (7) “Rollback tax” means the tax imposed under Section 59-2-506.
- (8) “Withdrawn from this part” means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:
- (a) an owner voluntarily requests that the land be withdrawn from this part;
 - (b) the land is no longer actively devoted to agricultural use;
 - (c) (i) the land has a change in ownership; and
 - (ii) (A) the new owner fails to apply for assessment under this part as required by Section 59-2-509; or
 - (B) (I) an owner applies for assessment under this part as required by Section 59-2-509; and
 - (II) the land does not meet the requirements of this part to be assessed under this part;



- (d)
 - (i) the legal description of the land changes; and
 - (ii)
 - (A) an owner fails to apply for assessment under this part as required by Section 59-2-509; or
 - (B)
 - (I) an owner applies for assessment under this part as required by Section 59-2-509; and
 - (II) the land does not meet the requirements of this part to be assessed under this part;
- (e) if required by the county assessor, the owner of the land:
 - (i) fails to file a new application as provided in Subsection 59-2-508(5); or
 - (ii) fails to file a signed statement as provided in Subsection 59-2-508(5); or
- (f) except as provided in Section 59-2-503, the land fails to meet a requirement of Section 59-2-503.

§ 59-2-503. Qualifications for agricultural use assessment

- (1) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:
 - (a) is not less than five contiguous acres in area, except that land may be assessed on the basis of the value that the land has for agricultural use:
 - (i) if:
 - (A) the land is devoted to agricultural use in conjunction with other eligible acreage; and
 - (B) the land and the other eligible acreage described in Subsection (1)(a)(i)(A) have identical legal ownership; or
 - (ii) as provided under Subsection (4); and
 - (b) except as provided in Subsection (5) or (6):
 - (i) is actively devoted to agricultural use; and
 - (ii) has been actively devoted to agricultural use for at least two successive years immediately preceding the tax year for which the land is being assessed under this part.
- (2) In determining whether land is actively devoted to agricultural use, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:



- (a) production levels reported in the current publication of the Utah Agricultural Statistics;
 - (b) current crop budgets developed and published by Utah State University; and
 - (c) other acceptable standards of agricultural production designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) Land may be assessed on the basis of the land's agricultural value if the land:
- (a) is subject to the privilege tax imposed by Section 59-4-101;
 - (b) is owned by the state or any of the state's political subdivisions; and (c) meets the requirements of Subsection (1).
- (4) Notwithstanding Subsection (1)(a), the commission or a county board of equalization may grant a waiver of the acreage limitation for land upon:
- (a) appeal by the owner; and
 - (b) submission of proof that:
 - (i) 80% or more of the owner's, purchaser's, or lessee's income is derived from agricultural products produced on the property in question; or
 - (ii) (A) the failure to meet the acreage requirement arose solely as a result of an acquisition by a governmental entity by:
 - (I) eminent domain; or
 - (II) the threat or imminence of an eminent domain proceeding;
 - (B) the land is actively devoted to agricultural use; and
 - (C) no change occurs in the ownership of the land.
- (5) (a) The commission or a county board of equalization may grant a waiver of the requirement that the land is actively devoted to agricultural use for the tax year for which the land is being assessed under this part upon:
- (i) appeal by the owner; and
 - (ii) submission of proof that:
 - (A) the land was assessed on the basis of agricultural use for at least two years immediately preceding that tax year; and



(B) the failure to meet the agricultural production requirements for that tax year was due to no fault or act of the owner, purchaser, or lessee.

(b) As used in Subsection (5)(a), "fault" does not include:

(i) intentional planting of crops or trees which, because of the maturation period, do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use; or

(ii) implementation of a bona fide range improvement program, crop rotation program, or other similar accepted cultural practices which do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use.

(6) Land that otherwise qualifies for assessment under this part qualifies for assessment under this part in the first year the land resumes being actively devoted to agricultural use if:

(a) the land becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral; and

(b) the land qualified for assessment under this part in the year immediately preceding the year the land became ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral.

(7) Land that otherwise qualifies under Subsection (1) to be assessed on the basis of the value that the land has for agricultural use does not lose that qualification by becoming subject to a forest stewardship plan developed under Section 65A-8a-106 under which the land is subject to a temporary period of limited use or nonuse.

§ 59-2-504. Exclusions from designation as agricultural use--Exception

(1) Except as provided in Subsection (2), land may not be assessed under this part if the land is:

(a) part of a platted subdivision or planned unit development, with restrictions prohibiting its use for agricultural purposes with surface improvements in place, whether within or without a city; or

(b) platted with surface improvements in place that are not an integral part of agricultural use.

(2) (a) If land has been platted with surface improvements in place, the land has been withdrawn from this part, and the owner is not able to transfer title to the platted property, or continue development of the platted property due to economic circumstances, or some other reasonable cause, the owner may petition the county assessor for reinstatement under this part for assessment purposes as land in agricultural use without vacating the subdivision plat.



(b) The county assessor may grant the petition for reinstatement described in Subsection (2)(a) if the land is actively devoted to agricultural use.

(3) For purposes of this section:

(a) “platted with surface improvements in place” means that:

(i) land is platted; and

(ii) all surface improvements necessary for the land to be sold as a lot or a unit are in place:

(A) regardless of whether or not it is the owner of the land who puts the surface improvements in place; and

(B) as determined by the:

(I) county legislative body if the land is located in an unincorporated area of the county;

(II) city legislative body if the land is located in a city; or

(III) town legislative body if the land is located in a town; and

(b) “surface improvement” means:

(i) a curb;

(ii) a gutter; or

(iii) pavement.

§ 59-2-505. Indicia of value for agricultural use assessment--Inclusion of fair market value on certain property tax notices

(1) (a) The county assessor shall consider only those indicia of value that the land has for agricultural use as determined by the commission when assessing land:

(i) that meets the requirements of Section 59-2-503 to be assessed under this part; and

(ii) for which the owner has:

(A) made a timely application in accordance with Section 59-2-508 for assessment under this part for the tax year for which the land is being assessed; and

(B) obtained approval of the application described in Subsection (1)(a)(ii)(A) from the county assessor.



- (b) If land that becomes subject to a conservation easement created in accordance with Title 57, Chapter 18, Land Conservation Easement Act, meets the requirements of Subsection (1)(a) for assessment under this part, the county assessor shall consider only those indicia of value that the land has for agricultural use in accordance with Subsection (1)(a) when assessing the land.
- (2) In addition to the value determined in accordance with Subsection (1), the fair market value assessment shall be included on the notices described in:
- (a) Section 59-2-919.1; and
- (b) Section 59-2-1317.
- (3) The county board of equalization shall review the agricultural use value and fair market value assessments each year as provided under Section 59-2-1001.

§ 59-2-506. Rollback tax--Penalty--Computation of tax--Procedure--Lien--Interest--Notice--Collection--Distribution

- (1) Except as provided in this section, Section 59-2-506.5, or Section 59-2-511, if land is withdrawn from this part, the land is subject to a rollback tax imposed in accordance with this section.
- (2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.
- (b) An owner that fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:
- (i) \$10; or
- (ii) 2% of the rollback tax due for the last year of the rollback period.
- (3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:
- (i) the tax paid while the land was assessed under this part; and
- (ii) the tax that would have been paid had the property not been assessed under this part.
- (b) For purposes of this section, the rollback period is a time period that:
- (i) begins on the later of:
- (A) the date the land is first assessed under this part; or
- (B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and



- (ii) ends the day on which the county assessor mails the notice required by Subsection (5).
- (4) (a) The county treasurer shall:
 - (i) collect the rollback tax; and
 - (ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:
 - (A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and
 - (B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recordation.
- (b) The county treasurer shall pay the rollback tax collected under this section:
 - (i) into the county treasury; and
 - (ii) to the various taxing entities pro rata in accordance with the property tax levies for the current year.
- (5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:
 - (i) the land is withdrawn from this part;
 - (ii) the land is subject to a rollback tax under this section; and
 - (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice described in this Subsection (5)(a).
- (b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).
- (ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (5)(a).
- (6) (a) Subject to Subsection (6)(b), the following are a lien on the land assessed under this part:
 - (i) the rollback tax; and
 - (ii) interest imposed in accordance with Subsection (7).
- (b) The lien described in Subsection (6)(a) shall:



- (i) arise upon the imposition of the rollback tax under this section;
 - (ii) end on the day on which the rollback tax and interest imposed in accordance with Subsection (7) are paid in full; and
 - (iii) relate back to the first day of the rollback period described in Subsection (3)(b).
- (7) (a) A delinquent rollback tax under this section shall accrue interest:
- (i) from the date of delinquency until paid; and
 - (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.
- (b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.
- (8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor, in accordance with Subsection (2), that the land is withdrawn from this part.
- (b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.
- (9) Except as provided in Section 59-2-511, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-503 to be assessed under this part.
- (10) Land that becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral is not subject to the rollback tax:
- (a) (i) for the portion of the land required by a split estate mineral rights owner to extract a mineral if, after the split estate mineral rights owner exercises the right to extract a mineral, the portion of the property that remains in agricultural production still meets the acreage requirements of Section 59-2-503 for assessment under this part; or
 - (ii) for the entire acreage that would otherwise qualify for assessment under this part if, after the split estate mineral rights owner exercises the right to extract a mineral, the entire acreage that would otherwise qualify for assessment under this part no longer meets the acreage requirements of Section 59-2-503 for assessment under this part only due to the extraction of the mineral by the split estate mineral rights owner; and



- (b) for the period of time that the property described in Subsection (10)(a) is ineligible for assessment under this part due to the extraction of a mineral by the split estate mineral rights owner.

**§ 59-2-506.5. Conservation easement rollback tax--One-time in lieu fee payment-
Computation--Lien--Interest--Notice--Procedure--Collection--Distribution**

- (1) (a) Notwithstanding Section 59-2-506 and subject to the requirements of this section, land is not subject to the rollback tax under Section 59-2-506, if:
 - (i) the land becomes subject to a conservation easement created in accordance with Title 57, Chapter 18, Land Conservation Easement Act;
 - (ii) the creation of the conservation easement described in Subsection (1)(a)(i) is considered to be a qualified conservation contribution for federal purposes under Section 170(h), Internal Revenue Code;¹
 - (iii) the land was assessed under this part in the tax year preceding the tax year that the land does not meet the requirements of Section 59-2-503;
 - (iv) after the creation of the conservation easement described in Subsection (1)(a)(i), the land does not meet the requirements of Section 59-2-503; and
 - (v) an owner of the land notifies the county assessor as provided in Subsection (1)(b).
- (b) An owner of land described in Subsection (1)(a) shall notify the county assessor that the land meets the requirements of Subsection (1)(a) within 30 days after the day on which the land does not meet the requirements of Section 59-2-503.
- (2) (a) Except as provided in Subsection (4), if a conservation easement is terminated in accordance with Section 57-18-5:
 - (i) the land described in Subsection (1) is subject to a conservation easement rollback tax imposed in accordance with this section; or
 - (ii) if the land described in Subsection (1) is owned by a governmental entity as defined in Section 59-2-511, the land is subject to a one-time in lieu fee payment that is:
 - (A) in an amount equal to the conservation easement rollback tax imposed in accordance with this section; and
 - (B) except as provided in Subsection (2)(b), paid, collected, and distributed in the same manner as the conservation easement rollback tax imposed in accordance with this section.



- (b) Notwithstanding Subsection (2)(a)(ii)(B), a one-time in lieu fee payment under Subsection (2)(a)(ii) is not a lien on the land described in Subsection (2)(a)(ii).
 - (c)
 - (i) The conservation easement rollback tax is an amount equal to 20 times the property tax imposed on the land for each year for the rollback period described in Subsection (2)(c)(ii).
 - (ii) For purposes of Subsection (2)(c)(i), the rollback period is a time period that:
 - (A) begins on the later of:
 - (I) the date the land became subject to a conservation easement; or
 - (II) five years preceding the day on which the county assessor mails the notice required by Subsection (3)(a); and
 - (B) ends the day on which the county assessor mails the notice required by Subsection (3)(a).
 - (d) An owner shall notify the county assessor that a conservation easement on land described in Subsection (1) has been terminated in accordance with Section 57-18-5 within 180 days after the day on which the conservation easement is terminated.
- (3) (a) If land is subject to a conservation easement rollback tax under Subsection (2), the county assessor shall mail to an owner of the land a notice that:
- (i) the land is subject to a conservation easement rollback tax under this section; and
 - (ii) the conservation easement rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice.
- (b) The conservation easement rollback tax is:
- (i) due and payable on the day the county assessor mails the notice required by Subsection (3)(a);
 - (ii) delinquent if an owner of the land that is subject to the conservation easement rollback tax does not pay the conservation easement rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (3)(a); and
 - (iii) subject to the same:



- (A) interest provisions of Subsection 59-2-506(7) that apply to the rollback tax; and
 - (B) notice requirements of Subsection 59-2-506(7) that apply to the rollback tax.
- (c)
- (i) Except as provided in Subsection (3)(c)(ii), the conservation easement rollback tax shall be paid, collected, subject to a lien, and distributed in a manner consistent with this section and Section 59-2-506.
 - (ii) Notwithstanding Subsection (3)(c)(i), a lien under Subsection (3)(c)(i) relates back to the day on which the conservation easement was terminated.
- (4)
- (a) Notwithstanding Subsection (2), land described in Subsection (2) is not subject to the conservation easement rollback tax or the one-time in lieu fee payment required by Subsection (2) if after the conservation easement is terminated in accordance with Section 57-18-5:
 - (i) an owner of the land applies for assessment of the land as land in agricultural use under this part within 30 days after the day on which the conservation easement is terminated; and
 - (ii) the application for assessment of the land described in Subsection (4)(a)(i) is approved within two years after the day on which the application was filed.
 - (b) Notwithstanding Subsection (4)(a), if the land described in Subsection (4)(a)(i) does not receive approval for assessment as land in agricultural use under this part within two years after the day on which the application was filed under Subsection (4)(a), an owner of the land shall:
 - (i) within 30 days after the day on which the two-year period expires, notify the county assessor that the two-year period expired; and
 - (ii) pay the conservation easement rollback tax or the one-time in lieu fee payment required by Subsection (2) as provided in this section.
- (5) Land subject to a conservation easement created in accordance with Title 57, Chapter 18, Land Conservation Easement Act, is not subject to a conservation easement rollback tax or a one-time in lieu fee payment if the land is assessed under this part in accordance with Section 59-2-505.

§ 59-2-507. Land included as agricultural--Site of farmhouse excluded--Taxation of structures and site of farmhouse

- (1) (a) Land under barns, sheds, silos, cribs, greenhouses and like structures, lakes, dams, ponds, streams, and irrigation ditches and like facilities is included in determining the total area of land actively devoted to agricultural use.



- (b) Land that is under a farmhouse and land used in connection with a farmhouse is excluded from the determination described in Subsection (1)(a).
- (2) The following shall be valued, assessed, and taxed using the same standards, methods, and procedures that apply to other taxable structures and other land in the county:
 - (a) a structure, except as provided in Subsection (3), that is located on land in agricultural use;
 - (b) a farmhouse and the land on which the farmhouse is located; and
 - (c) land used in connection with a farmhouse.
- (3) A high tunnel, as defined in Section 10-9a-525, is exempt from assessment for taxation purposes.

§ 59-2-508. Application--Signed statement--Consent to creation of a lien--Consent to audit and review--Notice

- (1) If an owner of land eligible for assessment under this part wants the land to be assessed under this part, the owner shall submit an application to the county assessor of the county in which the land is located.
- (2) An application required by Subsection (1) shall:
 - (a) be on a form:
 - (i) approved by the commission; and
 - (ii) provided to an owner:
 - (A) by the county assessor; and
 - (B) at the request of an owner;
 - (b) provide for the reporting of information related to this part;
 - (c) be submitted by:
 - (i) May 1 of the tax year in which assessment under Subsection (1) is requested if the land was not assessed under this part in the year before the application is submitted; or
 - (ii) by the date otherwise required by this part for land that prior to the application being submitted has been assessed under this part;
 - (d) be signed by all of the owners of the land that under the application would be assessed under this part;



- (e) be accompanied by the prescribed fees made payable to the county recorder;
 - (f) include a certification by an owner that the facts set forth in the application or signed statement are true;
 - (g) include a statement that the application constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part; and
 - (h) be recorded by the county recorder.
- (3) The application described in Subsection (2) constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part.
- (4) (a) If the county determines that an application that was timely filed is incomplete, the county shall:
- (i) notify the owner of the incomplete application; and
 - (ii) allow the owner to complete the application within 30 days from the day on which the county provides notice to the owner.
- (b) An application that has not been completed within 30 days of the day of the notice described in Subsection (4)(a) shall be considered denied.
- (5) (a) Once the application described in Subsection (1) has been approved, the county may:
- (i) require, by written request of the county assessor, the owner to submit a new application or a signed statement that verifies that the land qualifies for assessment under this part; or
 - (ii) except as provided in Subsection (5)(b), require no additional signed statement or application for assessment under this part.
- (b) A county shall require that an owner provide notice if land is withdrawn from this part:
- (i) as provided in Section 59-2-506; or
 - (ii) for land that is subject to a conservation easement created in accordance with Section 59-2-506.5, as provided in Section 59-2-506.5.
- (c) An owner shall submit an application or signed statement required under Subsection (5)(a) by the date specified in the written request of the county assessor for the application or signed statement.
- (6) A certification under Subsection (2)(f) is considered as if made under oath and subject to the same penalties as provided by law for perjury.



- (7) (a) All owners applying for participation under this part and all purchasers or lessees signing statements under Subsection (8) are considered to have given their consent to field audit and review by:
- (i) the commission;
 - (ii) the county assessor; or
 - (iii) the commission and the county assessor.
- (b) The consent described in Subsection (7)(a) is a condition to the acceptance of any application or signed statement.
- (8) Any owner of land eligible for assessment under this part, because a purchaser or lessee actively devotes the land to agricultural use as required by Section 59-2-503, may qualify the land for assessment under this part by submitting, with the application described in Subsection (2), a signed statement from that purchaser or lessee certifying those facts that would be necessary to meet the requirements of Section 59-2-503 for assessment under this part.

§ 59-2-509. Change of ownership or legal description

- (1) Subject to the other provisions of this section, land assessed under this part may continue to be assessed under this part if the land continues to comply with the requirements of this part, regardless of whether the land continues to have:
- (a) the same owner; or
 - (b) legal description.
- (2) Notwithstanding Subsection (1), land described in Subsection (1) is subject to the rollback tax as provided in Section 59-2-506 if the land is withdrawn from this part.
- (3) Notwithstanding Subsection (1), land is withdrawn from this part if:
- (a) there is a change in:
 - (i) the ownership of the land; or
 - (ii) the legal description of the land; and
 - (b) after a change described in Subsection (3)(a):
 - (i) the land does not meet the requirements of Section 59-2-503; or
 - (ii) an owner of the land fails to submit a new application for assessment as provided in Section 59-2-508.
- (4) An application required by this section shall be submitted within 120 days after the day on which there is a change described in Subsection (3)(a).



§ 59-2-510. Separation of land

Separation of a part of the land which is being valued, assessed, and taxed under this part, either by conveyance or other action of the owner of the land, for a use other than agricultural, subjects the land which is separated to liability for the applicable rollback tax, but does not impair the continuance of agricultural use valuation, assessment, and taxation for the remaining land if it continues to meet the requirements of this part.

§ 59-2-512. Land located in more than one county

- (1) If contiguous land in agricultural use in one ownership is located in more than one county, compliance with this part:
 - (a) shall be determined on the basis of the total area and production of the contiguous land; and
 - (b) is not determined on the basis of the area or production of land that is located in one particular county.
- (2) If land in agricultural use in one ownership is located in more than one county but the land is not contiguous across county lines, compliance with the requirements of this part shall be determined on the basis of the total area and production of the land in each county.

§ 59-2-514. State Farmland Evaluation Advisory Committee--Membership--Duties

- (1) There is created a State Farmland Evaluation Advisory Committee consisting of five members appointed as follows:
 - (a) one member appointed by the commission who shall be chairman of the committee;
 - (b) one member appointed by the president of Utah State University;
 - (c) one member appointed by the state Department of Agriculture and Food;
 - (d) one member appointed by the state County Assessors' Association; and
 - (e) one member actively engaged in farming or ranching appointed by the other members of the committee.
- (2) The committee shall meet at the call of the chairman to review the several classifications of land in agricultural use in the various areas of the state and recommend a range of values for each of the classifications based upon productive capabilities of the land when devoted to agricultural uses. The recommendations shall be submitted to the commission prior to October 2 of each year.

§ 59-2-1701. Title

This part is known as the "Urban Farming Assessment Act."



§ 59-2-1702. Definitions

<Section effective Jan. 1, 2019. See, also, section 59-2-1702 effective until Jan. 1, 2019.>

As used in this part:

- (1) “Actively devoted to urban farming” means that:
 - (a) land is devoted to active urban farming activities;
 - (b) the land produces greater than 50% of the average agricultural production per acre:
 - (i) as determined under Section 59-2-1703; and
 - (ii) for the given type of land and the given county or area.
- (2) “Rollback tax” means the tax imposed under Section 59-2-1705.
- (3) (a) Subject to Subsection (3)(b), “urban farming” means cultivating food:
 - (i) with a reasonable expectation of profit from the sale of the food; and
 - (ii) from irrigated land located in a county that has adopted an ordinance governing urban farming in the county, pursuant to Section 59-2-1714.
- (b) “Urban farming” does not include:
 - (i) cultivating food derived from an animal; or
 - (ii) grazing.
- (4) “Withdrawn from this part” means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:
 - (a) an owner voluntarily requests that the land be withdrawn from this part;
 - (b) the land is no longer actively devoted to urban farming;
 - (c) (i) the land has a change in ownership; and
 - (ii) (A) the new owner fails to apply for assessment under this part as required by Section 59-2-1707; or
 - (B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;
- (d) (i) the legal description of the land changes; and



- (ii) (A) an owner fails to apply for assessment under this part, as required by Section 59-2-1707; or
 - (B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;
- (e) the owner of the land fails to file an application as provided in Section 59-2-1707; or
- (f) except as provided in Section 59-2-1703, the land fails to meet a requirement of Section 59-2-1703.

§ 59-2-1703. Qualifications for urban farming assessment

- (1) (a) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:
 - (i) is actively devoted to urban farming;
 - (ii) is at least two contiguous acres, but less than five acres, in size; and
 - (iii) has been actively devoted to urban farming for at least two successive years immediately preceding the tax year for which the land is assessed under this part. (b) Land that is not actively devoted to urban farming may not be assessed as provided in Subsection (1)(a), even if the land is part of a parcel that includes land actively devoted to urban farming.
- (2) (a) In determining whether land is actively devoted to urban farming, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:
 - (i) production levels reported in the current publication of Utah Agricultural Statistics;
 - (ii) current crop budgets developed and published by Utah State University; or
 - (iii) the highest per acre value used for land assessed under the Farmland Assessment Act for the county in which the property is located.
- (b) A county assessor may not assess land actively devoted to urban farming on the basis of the value that the land has for agricultural use under this part unless an owner annually files documentation with the county assessor:
 - (i) on a form provided by the county assessor;
 - (ii) demonstrating to the satisfaction of the county assessor that the land meets the production levels required under this part; and



- (iii) except as provided in Subsection 59-2-1707(2)(c)(i), no later than January 30 for each tax year in which the owner applies for assessment under this part.
- (3) Notwithstanding Subsection (1)(a)(ii), a county board of equalization may grant a waiver of the acreage requirements of Subsection (1)(a)(ii):
 - (a) on appeal by an owner; and
 - (b) if the owner submits documentation to the county assessor demonstrating to the satisfaction of the county assessor that:
 - (i) the failure to meet the acreage requirements of Subsection (1)(a)(ii) arose solely as a result of an acquisition by a governmental entity by:
 - (A) eminent domain; or
 - (B) the threat or imminence of an eminent domain proceeding;
 - (ii) the land is actively devoted to urban farming; and
 - (iii) no change occurs in the ownership of the land.

§ 59-2-1704. Indicia of value for urban farming assessment--Inclusion of fair market value on certain property tax notices

- (1) The county assessor shall consider only those indicia of value that the land has for agricultural use as determined by the commission when assessing land:
 - (a) that meets the requirements of Section 59-2-1703 to be assessed under this part; and
 - (b) for which the owner has:
 - (i) made a timely application in accordance with Section 59-2-1707 for assessment under this part for the tax year for which the land is being assessed; and
 - (ii) obtained approval of the application described in Subsection (1)(b)(i) from the county assessor.
- (2) In addition to the value determined in accordance with Subsection (1), the fair market value assessment shall be included on the notices described in:
 - (a) Section 59-2-919.1; and
 - (b) Section 59-2-1317.
- (3) The county board of equalization shall review the agricultural use value and fair market value assessments each year as provided under Section 59-2-1001.



§ 59-2-1705. Rollback tax--Penalty--Computation of tax--Procedure--Lien--Interest-Notice--Collection--Distribution--Appeal to county board of equalization

- (1) Except as provided in this section or Section 59-2-1710, land that is withdrawn from this part is subject to a rollback tax imposed as provided in this section.
- (2)
 - (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.
 - (b) An owner who fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:
 - (i) \$10; or
 - (ii) 2% of the rollback tax due for the last year of the rollback period.
- (3)
 - (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:
 - (i) the tax paid while the land was assessed under this part; and
 - (ii) the tax that would have been paid had the property not been assessed under this part.
 - (b) For purposes of this section, the rollback period is a time period that:
 - (i) begins on the later of:
 - (A) the date the land is first assessed under this part; or
 - (B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and
 - (ii) ends the day on which the county assessor mails the notice required by Subsection (5).
- (4)
 - (a) The county treasurer shall:
 - (i) collect the rollback tax; and
 - (ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:
 - (A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and
 - (B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recording.
 - (b) The county treasurer shall pay the rollback tax collected under this section:
 - (i) into the county treasury; and



- (ii) to the various taxing entities pro rata in accordance with the property tax levies for the current year.
- (5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:
 - (i) the land is withdrawn from this part;
 - (ii) the land is subject to a rollback tax under this section; and
 - (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice described in this Subsection (5)(a).
- (b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).
- (ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (5)(a).
- (6) (a) Subject to Subsection (6)(b), the rollback tax and interest imposed under Subsection (7) are a lien on the land assessed under this part.
- (b) The lien described in Subsection (6)(a) shall:
 - (i) arise upon the imposition of the rollback tax under this section;
 - (ii) end on the day on which the rollback tax and interest imposed under Subsection (7) are paid in full; and
 - (iii) relate back to the first day of the rollback period described in Subsection (3)(b).
- (7) (a) A delinquent rollback tax under this section shall accrue interest:
 - (i) from the date of delinquency until paid; and
 - (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.
- (b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.
- (8) (a) Land that becomes ineligible for assessment under this part only as a result



of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor, in accordance with Subsection (2), that the land is withdrawn from this part.

- (b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.
- (9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-1703 to be assessed under this part.

§ 59-2-1706. Land included as urban farming

- (1) (a) Land under a structure used in or related to urban farming, including a barn, shed, silo, crib, or greenhouse, or under a facility used in or related to urban farming, including a lake, dam, pond, stream, or irrigation ditch, is included in determining the total area of land actively devoted to urban farming.
 - (b) The land described in Subsection (1)(a) shall be included in determining if the land meets the urban farming production requirements of Subsection 59-2-1703(2)(a).
- (2) (a) Except as provided in this part, land under a residence and land used in connection with residential use may not be included in determining the total area of land actively devoted to urban farming.
 - (b) Land described in Subsection (2)(a) shall be valued, assessed, and taxed in accordance with this chapter other than this part.

§ 59-2-1707. Application--Signed statement--Consent to creation of a lien--Consent to audit and review--Notice

- (1) For land to be assessed under this part, an owner of land eligible for assessment under this part shall submit an application annually to the county assessor of the county in which the land is located.
- (2) An application required by Subsection (1) shall:
 - (a) be on a form:
 - (i) approved by the commission; and
 - (ii) provided to an owner:
 - (A) by the county assessor; and
 - (B) at the request of an owner;
 - (b) provide for the reporting of information related to this part;



- (c) be submitted by:
 - (i) May 1 of the tax year in which assessment under Subsection (1) is requested if the land was not assessed under this part in the year before the application is submitted; or
 - (ii) the date otherwise required by this part for land that before the application being submitted has been assessed under this part;
- (d) be signed by all of the owners of the land that under the application would be assessed under this part;
- (e) be accompanied by the prescribed fees made payable to the county recorder;
- (f) include a certification by an owner that the facts set forth in the application or signed statement are true;
- (g) include a statement that the application constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part; and
- (h) be recorded by the county recorder.
- (3) The application described in Subsection (2) constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part.
- (4) (a) If the county determines that an application that was timely filed is incomplete, the county shall:
 - (i) notify the owner of the incomplete application; and
 - (ii) allow the owner to complete the application within 30 days from the day on which the county provides notice to the owner.
- (b) An application that has not been completed within 30 days of the day of the notice described in Subsection (4)(a) shall be considered denied.
- (5) (a) Except as provided in Subsections (1) and (2), a county assessor may not require an additional signed statement or application for assessment under this part.
- (b) Notwithstanding Subsection (5)(a), a county shall require that an owner provide notice if land is withdrawn from this part as provided in Section 59-2-1705.
- (6) A certification under Subsection (2)(f) is considered as if made under oath and subject to the same penalties as provided by law for perjury.
- (7) (a) An owner applying for participation under this part or a purchaser or lessee that signs a statement under Subsection (8) is considered to have given consent to a field audit and review by:
 - (i) the commission;



- (ii) the county assessor; or
- (iii) the commission and the county assessor.

(b) The consent described in Subsection (7)(a) is a condition to the acceptance of an application or signed statement.

- (8) An owner of land eligible for assessment under this part, because a purchaser or lessee actively devotes the land to agricultural use as required by Section 59-2-1703, may qualify the land for assessment under this part by submitting, with the application described in Subsection (2), a signed statement from that purchaser or lessee certifying those facts that would be necessary to meet the requirements of Section 59-2-1703 for assessment under this part.

§ 59-2-1708. Change of ownership or legal description

- (1) Subject to the other provisions of this section, land assessed under this part may continue to be assessed under this part if the land continues to comply with the requirements of this part, regardless of whether the land continues to have the same owner or legal description.
- (2) Notwithstanding Subsection (1), land described in Subsection (1) is subject to the rollback tax as provided in Section 59-2-1705 if the land is withdrawn from this part.
- (3) Notwithstanding Subsection (1), land is withdrawn from this part if:
 - (a) there is a change in:
 - (i) the ownership of the land; or
 - (ii) the legal description of the land; and
 - (b) after a change described in Subsection (3)(a):
 - (i) the land does not meet the requirements of Section 59-2-1703; or
 - (ii) an owner of the land fails to submit a new application for assessment as provided in Section 59-2-1707.
- (4) An application required by this section shall be submitted within 120 days after the day on which there is a change described in Subsection (3)(a).

§ 59-2-1709. Separation of land

Separation of a part of the land that is being valued, assessed, and taxed under this part, either by conveyance or other action of the owner of the land, for a use other than urban farming, subjects the land that is separated to liability for the applicable rollback tax, but does not impair the continuance of urban farming valuation, assessment, and taxation for the remaining land if the remaining land continues to meet the requirements of this part.

