

APPEAL # 24-1957
TAX TYPE: PERSONAL PROPERTY
TAX YEAR: 2021, 2022 AND 2023
DATE SIGNED: 02/05/2026
COMMISSIONERS: J. VALENTINE, R. ROCKWELL, J. FRESQUES AND J. DEEDS

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER, Petitioner, v. BOARD OF COUNTY COMMISSIONERS OF COUNTY-1 COUNTY, STATE OF UTAH, Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 24-1957</p> <p>Parcel No: Personal Property Account No. #####</p> <p>Tax Type: Personal Property</p> <p>Tax Years: 2021, 2022, and 2023</p> <p>Judge: Phan</p>
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This order may contain confidential "commercial information" as defined in Utah Code Ann. §59-1-404. "Commercial information" may be subject to disclosure restrictions as provided in Utah Code Ann. §59-1-404 and Utah Administrative Rule R861-1A-37. Utah Administrative Rule R861-1A-37(7) provides that the Tax Commission may publish this decision, in its entirety, unless the property taxpayer that provided the commercial information indicates to the Tax Commission in writing the specific commercial information that the property taxpayer wants protected. A request to protect commercial information shall be sent no later than 30 days after the issuance of this order to one or more of the following: taxredact@utah.gov or Utah State Tax Commission, Appeals Unit, 210 North 1950 West, Salt Lake City, Utah 84134.

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: TAXPAYER, Property Owner

For Respondent: RESPONDENT'S REP-1, Deputy County Attorney, COUNTY-1 County

RESPONDENT'S REP-2, COUNTY-1 County Assessor

RESPONDENT'S REP-3, Personal Property, COUNTY-1 County Assessor's

Office

STATEMENT OF THE CASE

Petitioner ("Property Owner") brings this appeal from the decision of the Board of County Commissioners of Utah County ("County"), issued on September 18, 2024, in which the County denied the Property Owner's appeal of a personal property audit for the years 2021, 2022 and 2023. This matter was argued in an Initial Hearing on MONTH DATE, YEAR, in accordance with Utah Code Ann. §59-2-1005 and §59-1-502.5.

APPLICABLE LAW

Article XIII, Section (2)(1) of the Utah Constitution provides for the taxation of tangible property in the state, as follows:

- (1) So that each person and corporation pays a tax in proportion to the fair market value of his, her, or its tangible property, all tangible property in the state that is not exempt under the laws of the United States or under this Constitution shall be:
 - (a) assessed at a uniform and equal rate in proportion to its fair market value, to be ascertained as provided by law; and
 - (b) taxed at a uniform and equal rate.

Utah Code Ann. §59-2-103(2) provides for the assessment of property, as follows:

All tangible taxable property located within the state 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.

Utah Code Ann. §59-2-102 provides the following definitions for property tax purposes:¹

As used in this chapter:

- (19) "Intangible property" means:
 - (a) property that is capable of private ownership separate from tangible property, including:
 - (i) money;
 - (ii) credits;
 - (iii) bonds;
 - (iv) stocks;
 - (v) representative property;
 - (vi) franchises;
 - (vii) licenses;
 - (viii) trade names;
 - (ix) copyrights; and
 - (x) patents;
 - (b) a low-income housing tax credit;
 - (c) goodwill; or

¹ The Commission notes that this decision cites to the 2021 version of the Utah Code because the Audit Report finds audit deficiencies under those provisions beginning on January 1, 2021. The provisions cited did not change substantively during the audit period unless specifically noted. The Commission notes that the Utah Legislature amended Utah Code Ann. §59-2-102 during the audit period. However, there were no substantive changes during the audit period that would affect the outcome of this decision.

(d) a renewable energy tax credit or incentive

(28) "Personal property" includes:

- (a) every class of property as defined in Subsection (29) that is the subject of ownership and is not real estate or an improvement;
- (b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;
- (c) bridges and ferries;
- (d) livestock; and
- (e) outdoor advertising structures as defined in Section 72-7-502.

(29)

- (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.

. . .

Utah Code Ann. §59-2-301 provides that “[t]he county assessor shall assess all property located within the county which is not required by law to be assessed by the commission.”

Utah Code Ann. §59-2-306 provides that a county may request a signed statement from a person in regards to real and/or personal property, as follows in pertinent part:

(1)

- (a) Except as provided in Subsection (1)(c), the county assessor may request a signed statement from any person setting forth all the real and personal property assessable by the assessor that the person owns, possesses, manages, or has under the person’s control at 12 noon on January 1.
- (b) A request under Subsection (1)(a) shall include a notice of the procedure under Section 59-2-1005 for appealing the value of the personal property...

(2)

- (a) Except as provided in Subsection (2)(b) or (c), a person shall file a signed statement described in Subsection (1) on or before May 15 of the year the county assessor requests the statement described in Subsection (1)...

(3) The signed statement shall include the following:

- (a) all property belonging to, claimed by, or in the possession, control, or management of the person, any firm of which the person is a member, or any corporation of which the person is president, secretary, cashier, or managing agent;
- (b) the county in which the property is located or in which the property is taxable; and, if taxable in the county in which the signed statement was made, also the city, town, school district, road district, or other taxing district in which the property is located or taxable;
- (c) all lands in parcels or subdivisions not exceeding 640 acres each, the sections and fractional sections of all tracts of land containing more than 640 acres that have been sectionized by the United States government, and the improvements on those lands; and
- (d) for a person who owns taxable tangible personal property as defined in Section 59-2-1115, the person’s NAICS code, as classified under the current North

American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget...

Utah Code Ann. §59-2-307 provides for the assessment of a penalty if a property owner fails to file the signed statement at follows:

- (1)
 - (a) Each person that fails to file the signed statement required by Section 59-2-306 or Section 59-2-306.5, fails to file the signed statement with respect to name and place of residence, or fails to appear and testify when requested by the assessor, shall pay a penalty equal to 10% of the estimated tax due, but not less than \$25 for each failure to file a signed and completed statement.
...
- (2)
 - (a) Upon a showing of reasonable cause, a county may waive or reduce a penalty imposed under Subsection (1)(a).
 - (b)
 - (i) Except as provided in Subsection (2)(b)(ii), a county assessor may impose a penalty under Subsection (1)(a) on or after May 16 of the year the county assessor requests the statement described in Section 59-2-306 or is due under Section 59-2-306.5.
 - (ii) A county assessor may not impose a penalty under Subsection (1)(a) until 30 days after the postmark date of mailing of a subsequent notice if the signed statement described in Section 59-2-306 is requested: (A) on or after March 16; or (B) by a county assessor of a county of the first class.
- (3)
 - (a) If an owner neglects or refuses to file a signed statement requested by an assessor as required under Section 59-2-306:
 - (i) the assessor shall: (A) make a record of the failure to file; and (B) make an estimate of the value of the property of the owner based on known facts and circumstances; and (ii) the assessor of a county of the first class: (A) shall make a subsequent request by mail for the signed statement, informing the owner of the consequences of not filing a signed statement; and (B) may impose a fee for the actual and necessary expenses of the mailing under Subsection (3)(a)(ii)(A).
...
 - (c) A county board of equalization or the commission may not reduce the value fixed by the assessor in accordance with Subsection (3)(a)(i) or the Multicounty Appraisal Trust in accordance with Subsection (3)(b)(i).

Procedures for appealing personal property valuations are provided at Utah Code Sec. §59-2-1005 as follows in relevant part:

- (1)
 - (a) A taxpayer owning personal property assessed by a county assessor under Section 59-2-301 may make an appeal relating to the value of the personal property by filing an application with the county legislative body no later than:
 - (i) the expiration of the time allowed under Section 59-2-306 for filing a signed statement, if the county assessor requests a signed statement under Section 59-2-306 or the expiration of the time allowed under Section 59-2-306.5 if the taxpayer is a telecommunications service provider; or

- (ii) 60 days after the mailing of the tax notice, for each other taxpayer.
- (b) A county legislative body shall:
 - (i) after giving reasonable notice, hear an appeal filed under Subsection (1)(a); and
 - (ii) render a written decision on the appeal within 60 days after receiving the appeal.
- (c) If the taxpayer is dissatisfied with a county legislative body decision under Subsection (1)(b), the taxpayer may file an appeal with the commission in accordance with Section 59-2-1006.

Utah Administrative Rule R884-24P-33² (“Rule 33”) addresses the valuation of personal property in pertinent part as follows:

- (1) Definitions.
 - (a)
 - (i) "Acquisition cost" does not include indirect costs such as debugging, licensing fees and permits, insurance, or security.
 - (ii) Acquisition cost may correspond to the cost new for new property, or cost used for used property...
 - (c) "Cost new" means the actual cost of the property when purchased new...
 - (e) "Percent good" means an estimate of value, expressed as a percentage, based on a property's acquisition cost or cost new, adjusted for depreciation and appreciation of all kinds.
 - (i) The percent good factor is applied against the acquisition cost or the cost new to derive taxable value for the property...
- (2) Each year the Property Tax Division shall update and publish percent good schedules for use in computing personal property valuation.
 - (a) Proposed schedules shall be transmitted to county assessors and interested parties for comment before adoption.
 - (b) A public comment period will be scheduled each year and a public hearing will be scheduled if requested by ten or more interested parties or at the discretion of the Commission.
 - (c) County assessors may deviate from the schedules when warranted by specific conditions affecting an item of personal property. When a deviation will affect an entire class or type of personal property, a written report, substantiating the changes with verifiable data, must be presented to the Commission. Alternative schedules may not be used without prior written approval of the Commission.
 - (d) A party may request a deviation from the value established by the schedule for a specific item of property if the use of the schedule does not result in the fair market value for the property at the retail level of trade on the lien date, including any relevant installation and assemblage value.
 -
- (5) Personal property valuation schedules may not be appealed to, or amended by, county boards of equalization.
 - ...

In a proceeding before the Tax Commission, the burden of proof is generally on the petitioner to support its position. *See Nelson v. Bd. of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997);

² This decision cites the 2021 version of the Utah Administrative Rule.

Utah Power & Light Co. v. Utah State Tax Comm'n, 590 P.2d 332 (Utah 1979); *Beaver County v. Utah State Tax Comm'n*, 916 P.2d 344 (Utah 1996); *Utah Railway Co. v. Utah State Tax Comm'n*, 2000 UT 49, 5 P.3d 652 (Utah 2000); *Fraughton v. Tax Commission*, 2019 UT App 6, 438 P.3d 961 (Utah Ct. App. 2019); and *Patience LLC v. Salt Lake County Board of Equalization*, 2021 UT App 4. To prevail in this matter, the Taxpayer must show substantial error in the value determined by the Board of County Commissioners and provide a sound evidentiary basis to support its requested value.

DISCUSSION

At the Initial Hearing, the facts presented were that the Property Owner and a partner had started the business BUSINESS-1 in YEAR. BUSINESS-1 is located at ADDRESS-1 CITY-1, Utah, and is a computer gaming center where customers could use the business's physical location and equipment for a fee as a place for computer gaming and gaming leagues. Although the Property Owner had started the business with a partner, the Property Owner bought out his partner on MONTH DATE, YEAR. The Property Owner provided a copy of the Purchase of Business Agreement (“Purchase Agreement”), which provided that the Property Owner purchased the partner’s interest for a price of \$\$\$\$\$.

The business failed to file signed personal property statements as required by Utah Code Sec. 59-2-306 for any of the years since the business opened through 2023. The Property Owner explained that this was his first business venture, he did not understand the personal property tax and also that he had been living in STATE-1, but operating the business remotely during the audit years and therefore did not receive any notices.

Because the Property Owner failed to file the required personal property signed statements, the County issued an estimate of the value pursuant to Utah Code Sec. 59-2-307, as well as a penalty. After the County issued the estimates, the Property Owner persuaded the County to audit the business’ personal property. The audit was originally issued on MONTH DATE, YEAR. The audit found that the Property Owner had not provided requested information and concluded a taxable value of the personal property for each year 2021, 2022 and 2023 of \$\$\$\$\$.³ The Property Owner appealed the audit on MONTH DATE, YEAR. The Board of County Commissioners denied the appeal on MONTH DATE, YEAR. The Property Owner appealed that denial to the Utah State Tax Commission.

While the appeal before the Utah State Tax Commission was still pending, a corrected audit was issued on MONTH DATE, YEAR, after discussions between the Property Owner and the auditor. The amended audit concluded that for tax year 2023, the taxable value of the personal property was \$\$\$\$\$. The parties did not provide the values of the personal property for 2021 or 2022, but stated that the value would be determined for 2023 and then the County would use the corrected list to go back to the other

³ Respondent’s Exhibit G.

years. The tax year 2023 audit indicated a cost value and taxable value for each class of property as follows:⁴

	Cost Value	Taxable Value
Class 3: Short Life Office Equipment	\$\$\$\$\$	\$\$\$\$\$
Class 5: Furniture and Trade Fixtures	\$\$\$\$\$	\$\$\$\$\$
Class 8: Machinery and Equipment	\$\$\$\$\$	\$\$\$\$\$
Class 12: Computer Hardware	\$\$\$\$\$	\$\$\$\$\$
Lien Year Total	\$\$\$\$\$	\$\$\$\$\$

Included as a line item under Class 5, Furniture and Trade Fixtures, was an item titled Asset Purchase FDS YEAR for \$\$\$\$\$. The County stated that this line item came from the depreciation schedules on the Property Owner’s federal return. For tax year 2023, this amount had been depreciated to a taxable value of \$\$\$\$\$, which mathematically is a percent good factor of .#####. The Property Owner stated that included in this line item was the acquisition amount for the Purchase Agreement, where he had bought out his partner’s business interest. He provided a copy of this Purchase Agreement, which stated a purchase price of \$\$\$\$\$. There was an additional \$\$\$\$\$ reported on the depreciation line in the Property Owner’s federal return and no information was submitted to show whether the additional amount related to the Purchase Agreement or some other items. If \$\$\$\$\$ is depreciated by the percent good factor of .#####, this results in a depreciated value of \$\$\$\$\$.

At the hearing, the Property Owner explained that he had only two issues with the corrected audit. The first issue was that the line item under Furniture and Trade Fixtures for \$\$\$\$\$ was actually double counting the personal property assets because this was the amount he had paid his partner for his partner’s interest in the business pursuant to the Purchase Agreement. At the Initial Hearing, the Property Owner explained that his partner had funded almost all of the business assets upfront and the Property Owner “just ran the center.” When the Property Owner purchased his partner’s interest in the business, he was essentially purchasing all of the computers and gaming equipment from his partner. Because the audit already included line items from when the partner had originally purchased the computers and other equipment in YEAR and YEAR, the Property Owner argued that adding the Purchase Agreement line item was double counting the personal property of the business.

The Property Owner's second issue was a request for a waiver of the penalties and interest. The Property Owner explained that he and his partner had started the gaming center and gaming leagues as a “passion project” and they were "learning as we go.” He stated that the accountant they had been using “disappeared.” He stated that they were not able to file tax returns and that they were “running around every corridor” trying to get the returns fixed. He also stated that in YEAR, he ended up moving to

⁴ Respondent’s Exhibit H.

STATE-1 because of the COVID pandemic and although he continued to operate the gaming center, he was doing that remotely.

The County's representatives explained that the Taxpayer had never filed the required personal property statements, so the County Assessor had to estimate the taxable value. The County noted that the County Assessor has a statutory and constitutional duty to make sure everyone is taxed equitably. The County stated that the \$\$\$\$ line item was an asset purchase listed on the federal depreciation schedule. The County noted that the audit tax and penalty amount total for the years 2021, 2022 and 2023 had been \$\$\$\$\$. The County's representatives stated the Property Owner has not paid the amount in full, had entered into a payment plan with the County, but was not making payments consistently. Regarding the corrected audit, the County's representative explained that the audit was only corrected for tax year 2023, but she had gone back and put in the new list from the corrected 2023 audit for the prior years and for the years going forward. The County's representatives also stated that the Property Owner would have to talk to the County Treasurer about waiving the penalty or interest, because it was the County Treasurer who could consider a waiver or abatement of penalty and interest and that the County Assessor did not have the ability to do so. The County also pointed out that the Property Owner has still not filed personal property statements even for subsequent tax years.

The Commission considers the information presented at the Initial Hearing and the applicable law. Utah Code Ann. §59-2-103(2) provides, "All tangible taxable property located within the state 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." Utah Code Ann. §59-2-301 provides that for the personal property at issue in this matter, it is the County Assessor who is required to assess the property. Utah Code Ann. §59-2-306 authorizes counties to require a property owner to submit a signed statement listing their personal property. The Property Owner had failed to submit a signed statement for any of the tax years 2021 through 2023, and, in fact, has not done so for YEAR or YEAR. When a property owner fails to file the signed statement, the County Assessor then must estimate the value of the property pursuant to Utah Code Ann. §59-2-307. Pursuant to Utah Code Ann. §59-2-307(1)(a), a person that fails to file the signed statement "shall pay a penalty equal to 10% of the estimated tax due" Because the Property Owner failed to submit the signed statement, this 10% penalty was imposed.

Based on the submissions, testimony and applicable statutes, the Commission first considers whether the line item for \$\$\$\$ under Furniture and Trade Fixtures was double counting the personal property assets that had been acquired prior to the Property Owner's acquisition of his partner's interest in the business, or should otherwise be excluded from the personal property assessment. The Property Owner provided a copy of the Purchase Agreement. The Purchase Agreement states as an explanation under "Background," that the "Seller owns the assets of the Business and desires to sell certain assets (the

‘Assets’), to the Purchaser, subject to any exclusions set out in this Agreement and the Purchaser desires to buy the Assets.” The “Business” was described to be “the business of Computer Gaming & Virtual Reality at STREET-1 CITY-1, Utah,” which is the same address as the business during the audit years. “Assets” is a defined term in the agreement. Under the Definitions section of the Purchase Agreement “Assets” are defined as:

- a. “The “Assets” to be included in this Agreement include all assets of the Seller. There are no excluded assets. The Assets consist of the following:
 - i. all equipment used in carrying on the Seller; see exhibit A

Later in the Purchase Agreement it states that the purchase price of \$\$\$\$\$ will be allocated to the business equipment. The Exhibit A provided with the Purchase Agreement, is not, however, a list of assets, but a line item of various expenses. The descriptions of these expenses list the name of the seller of the item purchased, such as COMPANY-1 or COMPANY-2, but what was purchased was not generally described. Based on the Purchase Agreement, the actual buyout price that the Property Owner paid to the partner is based on the expenses that were paid by the partner compared to those paid by the Property Owner.

“Personal property” is defined at Utah Code Ann. §59-2-102(28) in part to be “every class of property as defined in Subsection (29) that is the subject of ownership and is not real estate or an improvement.” Subsection (29)(b) states that “property” “does not include intangible property as defined in this section.” “Intangible property” is defined at Utah Code Ann. §59-2-102 to be “property that is capable of private ownership separate from tangible property” and provides a list of intangibles such as stocks, trade names, and goodwill. Although the Purchase Agreement itself states it is an asset purchase agreement, it is clear that the Property Owner was not acquiring any new tangible property that was not already an asset of the business. Therefore, the Purchase Agreement is not for the acquisition of any new tangible personal property acquired in YEAR, and should not have been included on the personal property schedules. This line item for \$\$\$\$\$ should be reduced in the personal property schedules by the amount stated on the Purchase Agreement and the amounts recalculated on that basis.

The Commission next considers the penalties. Utah Code Ann. §59-2-307(1)(a) provides that each person that fails to file the signed statement “shall pay a penalty . . .” The Property Owner failed to file the signed statements for the years at issue and the County assessed the penalty. Utah Code Ann. §59-2-307(2)(a) provides “Upon a showing of reasonable cause, a county may waive or reduce a penalty imposed under Subsection (1)(a).” Therefore, a county may waive or reduce the penalties. Appeal rights for a personal property assessment are set out at Utah Code Ann. §59-2-1005(1)(a), which provides that a

taxpayer may appeal the County Assessor’s personal property “value” to the “county legislative body.”⁵ Utah Code Ann. §59-2-1005(1)(b) provides that once an appeal is filed, the “county legislative body shall: (i) after giving reasonable notice, hear an appeal filed under Subsection (1)(a); and (ii) render a written decision on the appeal . . .” The county legislative body, in this case the Board of County Commissioners of Utah County,⁶ issued a written decision dated MONTH DATE, YEAR. The decision of the Board of County Commissioners was vague and stated only that the request was denied “with a finding that no legal or factual basis is shown to grant the request.” Utah Code Ann. §59-2-1005(1)(c) provides, “If the taxpayer is dissatisfied with a county legislative body decision under Subsection (1)(b), the taxpayer may file an appeal with the commission in accordance with Section 59-2-1006.” Utah Code Ann. §59-2-1005(1)(a) grants only the right to appeal the value of personal property to the Commission, not the penalty imposed under Utah Code Ann. §59-2-307. The Tax Commission does not have jurisdiction to review the penalty assessed under Utah Code Ann. §59-2-307.

On this basis, the tax amount should be revised to reduce the line item under Class 5, Furniture and Trade Fixtures, titled Asset Purchase FDS YEAR. For tax year 2023 this line item should be reduced by the depreciated taxable value of \$\$\$\$ that relates to the Purchase Agreement, so that the total depreciated taxable value is \$\$\$\$ for tax year 2023. This change should then be applied to the personal property audit for tax years 2021 and 2022, but adjusted for the correct depreciation amount for each year. The personal property tax and the interest accrued thereon should be adjusted on that basis.⁷

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission finds that the Property Owner’s personal property tax, and the interest accrued on that amount, for the tax years 2021, 2022 and 2023 should be adjusted as described in the Discussion section above. The County Auditor is hereby ordered to adjust its records accordingly. It is so ordered.

⁵ This is distinguishable from the County Assessor’s real property tax values, which are appealable to the County Board of Equalization.

⁶ See Utah Code Sec. 17-62-201(3), which provides that a “county commission under a county commission form of government is both the county legislative body and the county executive and has the powers, duties, and functions of a county legislative body under Chapter 64, County Legislative Body, and the powers, duties, and functions of a county executive under Chapter 65, County Executive.”

⁷The Tax Commission has no jurisdiction over the penalty.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed, or emailed, to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

or emailed to:

taxappeals@utah.gov

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this ____ day of _____, 2026.

John L. Valentine
Commission Chair

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner

John T. Deeds
Commissioner