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R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-62. Valuation of State Assessed Unitary Properties Pursuant to Utah Code Ann. Section 59-2-201.

1 (1) Purpose. The purpose of this rule is to:
2 (a) specify consistent [~~mass~~] <u>unitary</u> appraisal methodologies to be used by the Property Tax
3 Division (Division) in the valuation of tangible property assessable by the Commission; and
4 (b) identify preferred valuation methodologies to be considered by any party making an
5 appraisal of [~~an individual~~] unitary property.
6 (2) Definitions:
7 <u>(a) "Asset impairment" means the balance sheet adjustment amount necessary to adjust a</u>
8 <u>company's tangible asset values as reported in a company's books and records kept in the regular</u>
9 <u>course of business to reflect the current fair value of those assets.</u>
10 [~~(a)~~]<u>(b)</u> "Cost regulated utility" means any public utility assessable by the Commission whose
11 allowed revenues are determined by a rate of return applied to a rate base set by a state or federal
12 regulatory commission.
13 [~~(b)~~]<u>(c)</u> "Fair market value" means the amount at which property would change hands between
14 a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having
15 reasonable knowledge of the relevant facts. Fair market value reflects the value of property at its
16 highest and best use, subject to regulatory constraints.
17 <u>(d) "Historical cost less depreciation" or "HCLD" is the net book value of operating assets as</u>
18 <u>recorded on a company's books and records kept in the regular course of business, including any</u>
19 <u>adjustments for asset impairment reported by the taxpayer.</u>
20 <u>(e) "Normal rate of return on assets" means the average ratio of net operating income to</u>
21 <u>HCLD, excluding construction work in progress, for comparable firms within an industry.</u>
22 [~~(c)~~]<u>(f)</u> "Rate base" means the aggregate account balances reported as [~~such by the~~] <u>aggregate</u>
23 <u>account balances by a</u> cost regulated utility to [~~the~~] <u>an</u> applicable state or federal regulatory
24 commission.
25 [~~(d)~~]<u>(g)(i)</u> "Unitary property" means operating property that is assessed by the Commission
26 [~~pursuant to Section~~] <u>in accordance with Subsections</u> 59-2-201(1)(a)(i) through (iii).
27 [~~(i)~~]<u>(ii)</u> [~~Unitary properties include:~~] <u>"Unitary property" includes:</u>
28 (A) all property that operates as a unit across county lines, if the values must be apportioned
29 among more than one county or state; and
30 (B) all property of public utilities as defined in Section 59-2-102.

[~~(ii) These properties, some of which may be cost regulated utilities, are defined under one of the following categories.~~]

(iii) "Unitary property" includes the following categories of property:

(A) "Telecommunication [~~properties~~] property" [~~include~~] includes the operating property of local exchange carriers, local access providers, long distance carriers, cellular telephone or personal communication service (PCS) providers and pagers, and other similar properties.

(B) "Energy [~~properties~~] property" [~~include~~] includes the operating property of natural gas pipelines, natural gas distribution companies, liquid petroleum products pipelines, and electric corporations, including electric generation, transmission, and distribution companies, and other similar entities.

(C) "Transportation [~~properties~~] property" [~~include~~] includes the operating property of all airlines, air charter services, and air contract services, including major and small passenger carriers and major and small air freighters, long haul and short line railroads, and other similar properties.

(3)(a) All tangible operating property owned, leased, or used by unitary companies is subject to assessment and taxation according to its fair market value as of January 1, and as provided in Utah Constitution Article XIII, Section 2. Intangible property as defined under Section 59-2-102 is not subject to assessment and taxation.

(b) The value of intangible property exempt under Section 59-2-1101 shall be deducted from unit value, consistent with the methods used to derive the unit value.

(i) Booked goodwill and other capitalized intangible value determined using accepted accounting standards and practices shall be identified and deducted from the unit value based on their proportional contribution to the unit.

(ii) Documentation shall be obtained to allow for the valuation of intangible property described in Subsection 59-2-102(19)(a), and the value of the intangible property deducted from the unit value based on its proportional contribution to the unit.

(iii) The normal rate of return on assets for guideline companies shall be calculated and then compared to the actual return on assets for the subject company for the most current three to five year period. If this comparison indicates that the subject company's property earns a rate of return on assets that exceeds the normal rate of return on assets, and the higher than normal rate of return on assets is not attributable to real property location characteristics or the identification of an improvement to real property, the proportional deduction from unit value for intangible property shall be the subject company's rate of return on assets minus the normal rate of return on assets, divided by the normal rate of return on assets.

(iv) If a subject company has more than one type of intangible property, the proportional adjustment to the unit value is equal to the larger of:

(A) the sum of Subsections (3)(b)(i) and (ii); or

(B) Subsection (3)(b)(iii).

(v) Intangible property shall be removed in the original assessment if such removal is supported by information provided by the taxpayer with its return or is otherwise obtainable by the Division.

71 (4) General Valuation Principles. Unitary properties shall be assessed at fair market value
72 based on generally accepted appraisal theory as provided under this rule.
73 (a) The assemblage or enhanced value attributable to the tangible property should be included
74 in the assessed value. See Beaver County v. WilTel, Inc., 995 P.2d 602 (Utah 2000). The value
75 attributable to exempt intangible property must, when possible, be identified and removed [~~from value~~
76 ~~when using any valuation method and before that value is used in the reconciliation process~~].
77 (b) The preferred methods to determine fair market value are the cost approach and a yield
78 capitalization income indicator as set forth in Subsection (5).
79 (i) Other generally accepted appraisal methods may also be used when it can be demonstrated
80 that such methods are necessary to more accurately estimate fair market value.
81 (ii) Direct capitalization and the stock and debt method typically capture the value of
82 intangible property at higher levels than other methods. To the extent intangible property cannot be
83 identified and removed, relatively less weight shall be given to such methods in the reconciliation
84 process, as set forth in Subsection (5)(d).
85 (iii) Preferred valuation methods as set forth in this rule are, unless otherwise stated,
86 rebuttable presumptions, established for purposes of consistency in [~~mass appraisal~~] the valuation of
87 unitary properties. Any party challenging a preferred valuation method must demonstrate, by a
88 preponderance of the evidence, that the proposed alternative establishes a more accurate estimate of
89 fair market value.
90 (c) Non-operating Property. Property that is not necessary to the operation of unitary
91 properties and is assessed by a local county assessor, and property separately assessed by the Division,
92 such as registered motor vehicles, shall be removed from the reconciled [~~correlated~~] unit value or
93 from the state allocated value.
94 (5) Appraisal Methodologies.
95 (a) Cost Approach. Cost is relevant to value under the principle of substitution, which states
96 that no prudent investor would pay more for a property than the cost to construct a substitute property
97 of equal desirability and utility without undue delay. A cost indicator may be developed under one
98 or more of the following methods: replacement cost new less depreciation (RCNLD), reproduction
99 cost less depreciation (reproduction cost), and [~~historic~~] historical cost less depreciation (HCLD).
100 Obsolescence shall be considered in any cost indicator, and adjusted for, if it exists. Obsolescence
101 shall be adjusted for in the original assessment if the obsolescence adjustment is supported by
102 information provided by the taxpayer with its return or is otherwise obtainable by the Division.
103 (i) "Depreciation" is the loss in value from any cause. Different professions recognize two
104 distinct definitions or types of depreciation.
105 (A) Accounting. Accounting depreciation [~~Depreciation~~], often called "book" or
106 "accumulated" depreciation, is calculated according to generally accepted accounting principles or
107 regulatory guidelines. It is the amount of capital investment written off on a firm's accounting records
108 in order to allocate the original or [~~historic~~] historical cost of an asset over its life. Book depreciation
109 shall be [~~is typically~~] applied to [~~historic~~] historical cost to derive HCLD.

110 (B) Appraisal. Appraisal depreciation [~~Depreciation~~], sometimes referred to as "accrued"
111 depreciation, is the difference between the market value of an improvement and its cost new.
112 Appraisal depreciation [~~Depreciation~~] is typically applied to replacement or reproduction cost, but
113 should be applied to [~~historic cost~~] HCLD if market conditions so indicate. There are three types of
114 appraisal depreciation:

115 (I) Physical deterioration results from regular use and normal aging, which includes wear and
116 tear, decay, and the impact of the elements. Measuring physical deterioration generally requires an
117 economic life analysis or similar analysis. In the context of unitary appraisal, properties are typically
118 valued based on the assumption that assets are replaced as they age and physical deterioration is
119 reflected in normal depreciation schedules.

120 (II) Functional obsolescence is a reduction in market value or usefulness in a property due to
121 inefficiencies or inadequacies of the property itself when compared to more efficient or less costly
122 replacement alternatives. The preferred method for measuring functional obsolescence is the
123 difference between net book value and RCNLD, in conjunction with a "cost to cure" analysis of any
124 remaining functional obsolescence. [~~caused by internal property characteristics or flaws in the~~
125 ~~structure, design, or materials that diminish the utility of an improvement.~~]

126 (III) External, or economic, obsolescence is an impairment of an improvement due to negative
127 influences from outside the boundaries of the property, and is generally incurable. These influences
128 usually cannot be controlled by the property owner or user. The preferred method for measuring
129 economic obsolescence is a relative performance assessment among comparable firms or future cash
130 flow analysis. The relative performance assessment shall incorporate multiple measures of both
131 operating and financial performance in relation to comparable firms and may include historical trends.
132 Future cash flow analysis shall be based on a firm's estimated future cash flows if available.

133 (ii) Replacement cost is the estimated cost to construct, at current prices, a property with
134 utility equivalent to that being appraised, using modern materials, current technology and current
135 standards, design, and layout. The use of replacement cost instead of reproduction cost eliminates the
136 need to estimate some forms of functional obsolescence.

137 (iii) Reproduction cost is the estimated cost to construct, at current prices, an exact duplicate
138 or replica of the property being assessed, using the same materials, construction standards, design,
139 layout and quality of workmanship, and embodying any functional obsolescence.

140 (iv) [~~Historic~~] Historical cost is the original construction or acquisition cost as recorded on a
141 firm's accounting records. Depending upon the industry, it may be appropriate to trend [~~HCLD~~]
142 historical cost to estimate current reproduction or replacement cost. [~~costs.~~] Only trending indexes
143 commonly recognized by the specific industry may be used to adjust historical cost. [~~HCLD.~~]
144 Historical cost differs from HCLD in that HCLD has been adjusted for physical depreciation and asset
145 impairment determined using accepted accounting standards.

146 (v) Replacement cost new less depreciation (RCNLD) may be impractical to implement for
147 unitary property; therefore the preferred cost indicator of value [~~in a mass appraisal environment~~] for
148 unitary property is HCLD. A party may challenge the use of HCLD by proposing a different cost
149 indicator that establishes a more accurate cost estimate of value.

150 (b) Income Capitalization Approach. Under the principle of anticipation, benefits from income in the future may be capitalized into an estimate of present value.

152 (i) Yield Capitalization. The yield capitalization formula is CF/(k-g), where "CF" is a single year's normalized cash flow, "k" is the nominal, risk adjusted discount or yield rate, and "g" is the expected long-term growth rate of the cash flow.

155 (A) [~~Cash flow is restricted to the operating property in existence on the lien date, together with any replacements intended to maintain, but not expand or modify, existing capacity or function.~~] Cash flow is calculated as net operating income (NOI) plus non-cash charges (e.g., depreciation and the change in deferred income taxes), less capital expenditures and additions to working capital necessary to achieve the expected growth "g". Information necessary for the Division to calculate the cash flow shall be summarized and submitted to the Division by March 1 on a form provided by the Division.

162 (I) "Net operating income" or "NOI" means one of the following as determined by the appraiser: [~~is defined as~~]

164 (Aa) net income plus interest; or

165 (Bb) operating income less operating income tax expense.

166 (II) Capital expenditures should include only those expenditures necessary to replace or maintain existing plant and should not include any expenditure intended primarily for expansion or productivity and capacity enhancements.

169 (III) Cash flow is to be projected for the year immediately following the lien date, and may be estimated by reviewing [~~historic~~] historical cash flows, forecasting future cash flows, or a combination of both.

172 (Aa) If cash flows for a subsidiary company are not available or are not allocated on the parent company's cash flow statements, a method of allocating total cash flows must be developed based on sales, fixed assets, or other reasonable criteria. The subsidiary's total is divided by the parent's total to derive the allocation percentage to estimate the subsidiary's cash flow.

176 (Bb) If the subject company does not provide the Commission with its most recent cash flow statements by March 1 of the assessment year, the Division may estimate cash flow using the best information available.

179 (B) The discount rate (k) shall be based upon a weighted average cost of capital (WACC) considering current market debt rates and equity yields. WACC should reflect a typical capital structure for comparable companies within the industry.

182 (I) The cost of debt should reflect the current market rate (yield to maturity) of debt with the same credit rating as [~~the subject company~~] comparable companies within the subject industry.

184 (II) The cost of equity is estimated using standard methods such as the capital asset pricing model (CAPM), the Risk Premium and Dividend Growth models, or other recognized models.

186 (Aa) The CAPM is the preferred method to estimate the cost of equity. More than one method [~~may~~]shall be used to correlate a cost of equity[~~, but only if the CAPM method is weighted at least 50% in the correlation~~].

189 (Bb) The CAPM formula is k(e) = R(f) + (Beta x Risk Premium), where k(e) is the cost of
190 equity and R(f) is the risk free rate.
191 (Cc) The risk free rate shall be the current market rate on 20-year Treasury bonds.
192 (Dd) The beta should reflect an average or value-weighted average of comparable companies
193 and should be drawn consistently from Value Line or an equivalent source if Value Line is
194 unavailable. The beta of the specific assessed property should also be considered.
195 (Ee) The risk premium shall be the arithmetic average of the spread between the return on
196 stocks and the income return on long-term bonds for the entire historical period beginning in 1926.
197 Implied equity risk premium models may also be considered. [~~contained in the Ibbotson Yearbook~~
198 ~~published immediately following the lien date.~~]
199 (C) The growth rate "g" is the expected future growth of the cash flow attributable to assets
200 in place on the lien date, and any future replacement assets.
201 (I) If insufficient information is available to the Division, either from public sources or from
202 the taxpayer, to determine a rate, "g" will be the difference in the yield on a 20-year Treasury bond
203 and the yield on a 20-year Treasury Inflation Protected Security (TIPS) bond as of the lien date.
204 [~~expected inflationary rate in the Gross Domestic Product Price Deflator obtained in Value Line.~~]
205 The growth rate and the methodology used to produce it shall be disclosed in a capitalization rate
206 study published by the Commission by [~~February 15~~] April 1 of the assessment year.
207 (ii) A discounted cash flow (DCF) method may be [~~impractical to implement in a mass~~
208 ~~appraisal environment, but may be~~] used when reliable cash flow estimates can be established.
209 (A) A DCF model should incorporate for the terminal year, and to the extent possible for the
210 holding period, growth and discount rate assumptions that would be used in the yield capitalization
211 method defined under Subsection (5)(b)(i).
212 (B) Forecasted growth may be used where unusual income patterns are attributed to
213 (I) unused capacity;
214 (II) economic conditions; or
215 (III) similar circumstances.
216 (C) Growth may not be attributed to assets not in place as of the lien date.
217 (iii) Direct Capitalization is an income technique that converts an estimate of a single year's
218 income expectancy into an indication of value in one direct step, either by dividing the normalized
219 income estimate by a capitalization rate or by multiplying the normalized income estimate by an
220 income [~~factor~~] multiplier.
221 (c) Market or Sales Comparison Approach. The market value of property is directly related
222 to the prices of comparable, competitive properties. The market approach is estimated by comparing
223 the subject property to similar properties that have recently sold.
224 (I) Sales of comparable property must, to the extent possible, be adjusted for elements of
225 comparison, including market conditions, financing, location, physical characteristics, and economic
226 characteristics. When considering the sales of stock, business enterprises, or other properties that
227 include intangible assets, adjustments must be made for those intangibles.

(II) Because sales of unitary properties [~~are~~] may be infrequent, a stock and debt indicator may be viewed as a surrogate for the market approach. The stock and debt method is based on the accounting principle which holds that the market value of assets equal the market value of liabilities plus shareholder's equity.

(d) Reconciliation. When reconciling value indicators into a final estimate of value, the appraiser shall take into consideration the availability, quantity, and quality of data, as well as the strength and weaknesses of each value indicator. Weighting percentages used to correlate the value approaches will generally vary by industry, and may vary by company if evidence exists to support a different weighting. The Division must disclose in writing the weighting percentages used in the reconciliation for the final assessment. Any departure from the prior year's weighting must be explained in writing.

(6) Property Specific Considerations. Because of unique characteristics of properties and industries, modifications or alternatives to the general value indicators may be required for specific industries.

(a) Cost Regulated Utilities.

(i) Rate regulation is one form of regulation that may impact the market value of a company; however, it does not determine the market value of such a company. HCLD is the preferred cost indicator of value for cost regulated utilities because it represents an approximation of the basis upon which the investor can earn a return. HCLD is calculated by taking the [~~historic~~] historical cost less depreciation as reflected in the utility's net plant accounts, and then:

(A) subtracting the value of intangible property as provided in Subsection (3);

(B) subtracting any items not included in the utility's rate base (e.g., deferred income taxes and, if appropriate, acquisition adjustments); and

(C) adding any taxable items not included in the utility's net plant account or rate base.

(ii) Deferred Income Taxes, also referred to as DFIT, is an accounting entry that reflects the difference between the use of accelerated depreciation for income tax purposes and the use of straight-line depreciation for financial statements. For traditional rate base regulated companies, regulators generally exclude deferred income taxes from rate base, recognizing it as ratepayer contributed capital. Where rate base is reduced by deferred income taxes for rate base regulated companies, [~~they~~] deferred income taxes shall be removed from HCLD.

(iii) Items excluded from rate base under Subsections (6)(a)(i)(A) or (B) should not be subtracted from HCLD to the extent it can be shown that regulators would likely permit the rate base of a potential purchaser to include a premium over existing rate base.

(iv) The allowed or authorized rate of return for rate setting purposes shall be distinguished from the cost of equity as used in long-term perpetuity cash flow valuations.

(b)(i) Railroads.

(ii) The cost indicator should generally be given little or no weight because there is no observable relationship between cost and fair market value.

(c) Airlines, air charter services, and air contract services.

(i) For purposes of this Subsection (6)(c):

268 (A) "aircraft pricing guide" means a nationally recognized publication that assigns value
269 estimates for individual commercial aircraft that are in average condition typical for their type and
270 vintage, and identified by year, make and model;
271 (B) "airline" means an:
272 (I) airline under Section 59-2-102;
273 (II) air charter service under Section 59-2-102; and
274 (III) air contract service under Section 59-2-102;
275 (C) "airline market indicator" means an estimate of value based on an aircraft pricing guide;
276 and
277 (D) "non-mobile flight equipment" means all operating property of an airline, air charter
278 service, or air contract service that is not within the definition of mobile flight equipment under
279 Section 59-2-102.
280 (ii) In situations where the use of preferred methods for determining fair market value under
281 Subsection (5) does not produce a reasonable estimate of the fair market value of the property of an
282 airline operating as a unit, an airline market indicator published in an aircraft pricing guide, and
283 adjusted as provided in Subsections (6)(c)(ii)(A) and (6)(c)(ii)(B), may be used to estimate the fair
284 market value of the airline property.
285 (A)(I) In order to reflect the value of a fleet of aircraft as part of an operating unit, an aircraft
286 market indicator shall include a fleet adjustment or equivalent valuation for a fleet.
287 (II) If a fleet adjustment is provided in an aircraft pricing guide, the adjustment under
288 Subsection (6)(c)(ii)(A)(I) shall follow the directions in that guide. If no fleet adjustment is provided
289 in an aircraft pricing guide, the standard adjustment under Subsection (6)(c)(ii)(A)(I) shall be 20
290 percent from a wholesale value or equivalent level of value as published in the guide.
291 (B) Non-mobile flight equipment shall be valued using the cost approach under Subsection
292 (5)(a) or the market or sales comparison approach under Subsection (5)(c), and added to the value of
293 the fleet.
294 (iii) An income capitalization approach under Subsection (5)(b) shall incorporate the
295 information available to make an estimate of future cash flows.
296 (iv)(A) When an aircraft market indicator under Subsection (6)(c)(ii) is used to estimate the
297 fair market value of an airline, the Division shall:
298 (I) calculate the fair market value of the airline using the preferred methods under Subsection
299 (5);
300 (II) retain the calculations under Subsection (6)(c)(iv)(A)(I) in the work files maintained by
301 the Division; and
302 (III) include the amounts calculated under Subsection (6)(c)(iv)(A)(I) in any appraisal report
303 that is produced in association with an assessment issued by the Division.
304 (B) When an aircraft market indicator under Subsection (6)(c)(ii) is used, the Division shall
305 justify in any appraisal report issued with an assessment why the preferred methods under Subsection
306 (5) were not used.

307 (v)(A) When the preferred methods under Subsection (5) are used to estimate the fair market
308 value of an airline, the Division shall:
309 (I) calculate an aircraft market indicator under Subsection (6)(c)(ii);
310 (II) retain the calculations under Subsection (6)(c)(v)(A)(I) in the work files maintained by
311 the Division; and
312 (III) include the amounts calculated under Subsection (6)(c)(v)(A)(I) in any appraisal report
313 that is produced in association with an assessment issued by the Division.
314 (B) Value estimates from an aircraft pricing guide under Subsection (6)(c)(i)(A) along with
315 the valuation of non-mobile flight equipment under Subsection (6)(c)(ii)(B) shall, when possible, also
316 be included in an assessment or appraisal report for purposes of comparison.
317 (C) Reasons for not including a value estimate required under Subsection (6)(c)(v)(B)
318 include:
319 (I) failure to file a return; or
320 (II) failure to identify specific aircraft.
321 <u>(7) The provisions of this rule shall be implemented beginning January 1, 2022.</u>