November 2009 Volume 36

THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

Democrat Party Proposes Massive Tax Increase on Utah Manufacturers

The Utah Democratic Party is proposing raising taxes on manufacturers by $135 million per year to address the state's anticipated $850 million shortfall in FY2011, according to information posted at the party's official blog. (http://utdems.blogspot.com/2009/11/tax-increase-on-food-is-wrong.html). The Democrats propose eliminating sales tax exemptions for equipment and energy used in the manufacturing process. This proposal has several flaws.

Do businesses, especially manufacturers, get better tax treatment than individuals?

The Utah Democratic Party argues that businesses get favorable tax treatment compared to individuals. For example, manufacturers obtain sales tax exemptions for certain equipment purchases, but individuals do not. However, the Utah Democratic Party does not mention that individuals do not pay property taxes on non-vehicular personal property while businesses do. According to the State Tax Commission, businesses paid $138 million in non-vehicular personal property taxes in 2008. Businesses pay property taxes on computers, printers, furnishings and other personal property. Individuals and households do not.

Individuals receive a 45% exemption on primary residential property while businesses receive no reduction in real property taxes. The 45% primary residential exemption shifts $298 million in property taxes, mainly to businesses, according to Utah Taxpayer Association calculations based on Tax Commission data for 2008.

Exempting business inputs from sales taxes is good tax policy.

Economists generally agree that business inputs should not be subject to sales taxes for numerous reasons.

First, taxing business inputs leads to tax pyramiding in which taxes are imposed at every stage of production. This conceals the true cost of government. Taxes should be imposed at the final stage of consumption so

Notice of Utah Taxpayers Association's Annual Meeting

All members of the Utah Taxpayers Association are invited to attend the Association's Annual Meeting, which will be held Friday, November 20, 2009 at 2:00 p.m. The meeting will be held at the offices of Holme Roberts & Owen, 299 South Main Street, Suite 1800, Salt Lake City, Utah.

In addition to electing the Association's Board of Directors for 2010, members will consider an amendment to the Association's Articles of Incorporation. The amendment would change the language which currently requires the Association office to be located in Salt Lake City to require that it be located anywhere in Salt Lake County.

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they are visible to taxpayers. Besides, most people realize that businesses don't pay taxes, but customers, employees and shareholders do.

Second, unlike most retail and residential construction, manufacturers compete in national and international markets, and taxing manufacturing inputs makes Utah manufacturers less competitive. According to the CCH 2009 State Tax Handbook, nearly every state offers some type of sales tax reduction for manufacturing equipment. Increasing exports and production by local manufacturers is an important component in economic growth.

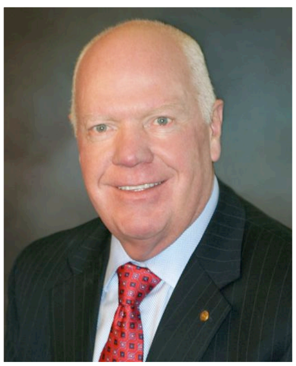
Economists generally agree that business inputs should not be subject to sales taxes.

Third, the primary drivers of long-term economic growth are increases in productivity, which are driven in large part by investment in new equipment and software. Imposing taxes on business inputs reduces business investment.

Fourth, taxes generated from business inputs are highly volatile. During economic expansions, businesses invest heavily in equipment and during recessions businesses cut back significantly on capital purchases. By comparison, consumer expenditures are much more stable.

Eliminate RDA subsidies for retailers instead of raising taxes on manufacturers

According to the Tax Commission, Utah cities diverted $109 million in property taxes from local governments, about 50% from school districts, to developers in 2008. Most of this is used to subsidize retail activity. Subsidizing retail does not promote economic growth. Consumers do not increase consumption because their city decided to subsidize another retail venue. Besides, production and investment, not consumption, are the keys to long-term economic growth, particularly in a global economy where local production can be exported to other states and countries that brings wealth into the state.



Association President Howard Stephenson

My Corner: Howard Stephenson

Time to Restore the Sales Tax on Food, with Corresponding Cuts in Other Taxes

Like any group of humans, sometimes the legislature makes mistakes. Sometimes these mistakes are inadvertent – the result of not fully understanding the hidden impacts of the language in a piece of legislation until it is implemented. Sometimes these mistakes are a result of peer pressure from very influential persons inside and outside the legislature.

A few years ago the legislature made a major mistake when it eliminated a portion of the sales tax on unprepared food items. Legislators were highly influenced by the fact that Governor Jon M. Huntsman, Jr. had made a campaign pledge to remove the sales tax on food. House members were influenced by then Speaker Greg Curtis, who said he wanted to be remembered in his obituary for winning the removal of the tax, instead of some of the negative stories which the media had published about him.

Neither of these reasons should have been sufficient to win passage of the reduced tax on food. Other taxes should have been cut instead, like taxes that would actually stimulate economic growth. Corporate and individual income taxes should have been reduced, making Utah more competitive for the location of high paying jobs.

Providing a refundable income tax credit for low-income families is an equitable way of replacing the sales tax on food without unnecessarily burdening those least able to pay the tax.

Some argue that the food tax is regressive, impacting most heavily those least able to pay. They're right, but the answer is not to eliminate the tax for everyone. The answer is to mollify the regressive impacts by targeting repayments to the poor, equivalent to the taxes they pay.

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According to the federal Department of Agriculture's "Thrifty Food Plan," an average low-income family of four with young children pays approximately $6,286 per year on food. If the Legislature imposes the same 4.75 percent sales tax on food that it imposes on other goods, that average low-income family would pay an additional $188.57 per year in sales tax.

The Legislature could provide an income tax credit of $188.57 for families whose family size and income place them at no more than 150 percent of the federal poverty line. That would be a total tax cut of $27.6 million. Imposing the full 4.75 percent on food, however, would raise $144.4 million. If the Legislature uses the remaining $116.8 million to lower the state income tax, Utah's income tax rate could decline from 5.30 percent to 5.03 percent, and the state would lose no revenue. And while we're at it, let's drop it to an even 5.0 percent.

Making the full sales tax apply to the most stable portion of the sales tax base would stabilize sales tax revenues, which would decrease the pressure future Legislatures will feel to increase taxes during an economic downturn.

By lowering the income tax rate while restoring the full sales tax on food, the Legislature would not be increasing taxes. Making the full sales tax apply to the most stable portion of the sales tax base would stabilize sales tax revenues, which would decrease the pressure future Legislatures will feel to increase taxes during an economic downturn. At the same time, lowering the income tax rate will make Utah more economically competitive, as businesses and families will see that living and doing business in Utah is less expensive than in our competitive states.

Taxpayers Association Uncovers Problems With Municipal Inter-Fund Transfers

In reviewing municipal budgets statewide, your Utah Taxpayers Association has discovered problems regarding the way some cities transfer funds from enterprise funds to their General Fund or other enterprise funds. The public notice requirements that apply when transfers are part of the original budget process, also apply when a city amends its budget midyear. Otherwise, budget amendments could make a mockery of the notification process.

Two sections of the Utah code govern transfers to or from a municipal enterprise fund. Section 10-6-135(3)(d)(i) requires that cities mail very specific notifications to every ratepayer when a transfer from an enterprise fund is anticipated in the city's tentative budget. The notice requirements in Section 10-6-135 ensure that ratepayers have the opportunity to voice support or opposition to proposed transfers. Section 10-6-136 allows cities to increase allocations to any city fund, including an enterprise fund, upon five days notice to the members of the City Council.

In training municipal leaders and staff on how to manage their city budgets, the State Auditors Office has repeatedly and appropriately emphasized that any amendments to the tentative budget must meet the notification requirements outlined in Section 10-6-135 and Section 10-6-136.

Your Utah Taxpayers Association agrees with the State Auditors Office's application of these sections of code. Any amendment to a municipal budget constitutes another tentative budget, so transfers proposed in amendments to a city's tentative budget must meet the notification requirements in both sections of the statute.

For example, in amending its FY 2008-2009 budget, Lehi City transferred $4.25 million from its electric utility fund to a number of other funds, including the General Fund. Relying on Section 10-6-136, they did not provide the notification requirements in Section 10-6-135.

They should have provided this notification to ratepayers. Whether the City Council adopts the first tentative budget, or amends that tentative budget, the Legislature's clear intent is to require full disclosure and notification. No city should be able to skirt these disclosure and notification requirements simply by making the transfers while amending the tentative budget.

That is how the State Auditors Office trains municipal officials, and that is the clear intent of the statute. To the extent that there is any ambiguity about how much notification Utah law requires, the Legislature should consider appropriate legislation.

State Auditor: Cities Must Always Notify Ratepayer

In an October 21, 2009 letter, the State Auditor indicated whether a city "can avoid the notice and hearing provisions [of Section 10-6-135] by not including transfers that are in excess of reasonable allocations of cost in a tentative budget. Our interpretation is that it cannot."

"At base, section 10-6-135 is intended to provide for a budget process that is open and fair. Accordingly, it is very important that transfers from one fund to another are transparent. That an entity could potentially hide the impact of a transfer by defining the 'tentative budget' too narrowly violates the intent of section 10-6-135 and the entire fabric of the statutory budget process."

"This information has been provided to local governments for the past several years in our regional training seminars as well as to individual local governments asking for guidance in this area of the budget process."

Draper Seeks Funds From Canyons School District to Rehabilitate VF Factory Outlet

Another city wants schools to fund retail development. In this case, Draper City wants the Canyons School Board to give away property tax revenue, so a developer can redevelop the VF Factory Outlet Mall on the cheap. Your Utah Taxpayers Association has reviewed the draft report from Draper City describing their proposed "VF Factory Outlet Mall" community development area (CDA). Based on the review, in the strongest possible terms we urge the Canyons School District not to participate in the proposed CDA.

The VF Factory Outlet Mall CDA is another example of just how badly CDAs can be abused. It proposes to provide tax subsidies to a developer to build retail stores, family restaurants and a movie theater. Presumably Draper believes the tax subsidies offered by this CDA will spur net new economic activity. They will not.

All the development contemplated in the Draper CDA is retail. Tax subsidies do nothing to stimulate retail economic activity; instead, tax subsidies just rearrange where that activity occurs and which city reaps the taxes associated with the retail activity.

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There are limited circumstances in which a CDA, or another form of an RDA, may be appropriate. Assume Toyota were deciding whether to locate a manufacturing plant in Draper or Huntsville, Alabama. If Toyota chooses Draper, then Utah would enjoy new economic activity. The plant would bring new, higher-paying jobs, which, but for the incentive, would not have occurred in Utah.

In that case, it might be appropriate for Draper, the Canyons

School District, Salt Lake County and the other taxing entities to provide tax incentives to make Draper more attractive to Toyota. In all likelihood, the Governor's Office of Economic Development would also provide appropriate incentives to make Draper's bid for the Toyota plant more competitive.

Unfortunately, Draper's CDA bears no resemblance to the hypothetical case of a CDA being used to attract a Toyota plant. The entire project consists of retail sales, and retail sales will occur in the greater community with or without tax subsidies.

If the Canyons School District agrees to give property tax subsidies to the VF Factory Outlet Mall developer, they will get nothing in return. Every transaction in the proposed development will occur somewhere in the surrounding community without that subsidy. The transactions may be in Sandy or Midvale or Cottonwood Heights, but they will occur.

The plight of the Cottonwood Mall illustrates the folly of retail RDA/CDA projects like the proposed Draper CDA. Just over one year ago, the Granite School Board approved an RDA to subsidize the redevelopment of the Cottonwood Mall. Like the Draper CDA, the proposed Cottonwood Mall design included a mixture of retail, office space and residential units. The total subsidy from all the taxing entities totaled nearly $100 million over 20 years.

Despite those subsidies, the Cottonwood Mall project lies fallow. Those subsidies did not and could not change the amount of consumer spending. The reason for its failure is simple. Tax subsidies for retail development are nothing but corporate welfare. While they may skew the location of the activity, they spur no new economic activity.

Despite the economic arguments against it, the Granite School Board was under extreme pressure to support the Cottonwood Mall RDA. Five cities across the District wanted their own retail RDA project, so board members had difficulty supporting the project in their city, but opposing the other projects.

In this case, the Canyons School Board has the ability to prevent that kind of logrolling. This is the first RDA project presented to the Canyons School Board. If the Board votes against the Draper CDA, the Board will send a strong message to other cities that school property tax dollars belong in the classroom, not in developers' pockets. On the other hand, a vote in favor of the proposed CDA would be an open invitation to developers and cities alike to ask the Canyons School Board for subsidies.

We had hoped that cities would learn the lessons of the Cottonwood Mall's failure, and not seek tax subsidies for similar projects. At least in the case of Draper, that is not the case. We hope the Canyons School Board will be more realistic than the Granite School Board was, and reject the proposed VF Factory Outlet Mall CDA.

Governor Herbert Appoints New State Tax Commissioner

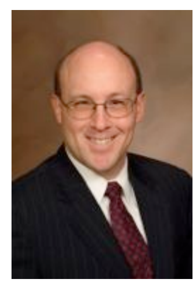
Taxpayers Association questions Michael Cragun's qualifications

Governor Gary Herbert

Governor Gary Herbert has just nominated Michael Cragun to replace Pam Hendrickson on the Utah State Tax Commission. Hendrickson has been a Tax Commissioner since 1997, even earning the Utah Taxpayers Association's "Lifetime Achievement" award this past May. However, Cragun's record on the Davis County Commission, and his significant deficits in tax expertise make him a poor choice for the State Tax Commission. The Utah Senate will consider his nomination in extraordinary session on November 17, 2009.

Unlike the Utah State Tax Commission, most boards and commissions in Utah government have no judicial function. They make policy recommendations for the Governor, various agencies and the Legislature to consider. The Tax Commission, however, is an adjudicative and quasi legislative body. Much like a traditional court, the Commissioners hear and decide legal appeals regarding the taxes you pay. Much like a legislature, the Commissioners also promulgate rules that bind taxpayers and taxing authorities.

To adequately perform their job, Commissioners require substantial knowledge of tax related constitutional law, federal tax law and Utah tax laws, in addition to the required procedure in adjucating tax cases, promulgating tax rules, supervising tax employees, and the minutiae of administering the many taxes Utah businesses and families pay. After leaving law school, tax attorneys and accountants spend years learning the intricate and crucial basics of tax law. In the past, both taxpayers and fellow commissioners have paid a high price for unqualified tax commissioners. Cragun is unqualified to be an effective Tax Commissioner.



Michael Cragun

Cragun's experience in tax law is from his time as a Davis County Commissioner, where he proposed a 138 percent property tax increase. However, he was defeated in his next election because of his support for that property tax increase. (Davis County voters were so concerned with that property tax increase that every County Commissioner who supported it either lost their next election, or declined to seek reelection.)

Given this background, Cragun's appointment should be very concerning to Utah taxpayers. Not only does he lack the basic background with and knowledge of tax law that should be a minimum threshold for any possible appointee to the Utah State Tax Commission, but his record on the Davis County Commission suggests his motivating incentive is to raise taxes. That experience alone should terrify taxpayers required to have him decide tax cases as Tax Commissioner. With a record like that, it is hard to understand why Gov. Herbert nominated him in the first place.

Cragun served as head of the Elections Office under Lieutenant Governor Gary Herbert. During his tenure, the Elections Office tried to improve the state's online disclosure system for legislators and lobbyists. However, that improvement remains a complete failure. When a new version was rolled out prior to a filing deadline, many legislators and lobbyists were unable to log in and file their reports, and had to scramble to file paper reports within the deadline. Moreover, the current system didn't even support people logging in from Mac computers.

Some have speculated that the newly appointed Lt. Gov. Greg Bell didn't have a place for Cragun on his staff, so Gov. Herbert looked for a soft landing for Cragun. Most other general qualification boards would have been acceptable, but the Tax Commission requires more expertise and experience than Cragun has. (For a list of other Boards and Commissions, please visit the following website http://www.governor.utah.gov/boards/home.html)

Others have speculated Cragun was selected because Governor Herbert viewed Pam Hendrickson as holding a "county" slot on the Tax Commission, and Gov. Herbert wanted to replace her with another "county" representative. However, we are unaware of any statutory slot for county representatives on the Tax Commission.

If Cragun views himself as a county representative on the Tax Commission, it would have a chilling effect on many business owners, fearful that the Tax Commission would support the counties' ongoing efforts to reinstate the taxation of intangibles in the valuation of property. Given his willingness to raise taxes in Davis County, and his general lack of familiarity with the basics and nuances of tax law, that concern is very real.

Fortunately, nominees to the State Tax Commission must be approved by the State Senate. We urge Senators to look very carefully at Mr. Cragun's qualifications.

Healthcare Proposal to Cost Taxpayer $725 Billion

The House has rolled out its revised health system reform plan, and it is a hard pill to swallow. Advertised as costing "only" $894 billion over ten years, accounting tricks and hidden taxes indicate that the total cost could be much higher, from $1.1 trillion to $1.5 trillion.

Recently released numbers from the Congressional Budget Office show that the gross cost of expanding Medicaid coverage and a new entitlement to subsidies for health insurance is much higher than congressional supporters admit. Higher payment rates in Medicaid would cost $57 billion and funding for public health, prevention, and wellness funds would total $34 billion.

Other costs, such as a new program to encourage physicians to enter primary care, increased prevention spending and increased Medicaid matching funds (to favored states) would total $230 billion over a decade. In addition, billons more would go to extra spending on Medicare drug coverage.

Another expensive problem with the current healthcare proposal is the creation of an entirely separate "doc fix" bill. Originally intended to be part of the healthcare reform bill, this separate $245 billion piece of legislation is designed to protect doctors from annual cuts to their Medicare reimbursement rates. However, the $245 billion, is not included in the $894 billion healthcare reform price tag and will directly add to the ballooning national deficit.

In short, Democratic leaders are planning to push for up to a $1.5 trillion spending program, far exceeding the $900 billion threshold President Obama established. But, the biggest problem with the proposal is how to pay for it; more debt, more taxes and unworkable price controls on Medicare and Medicaid.

In the case of taxes, Democrats are proposing a 5.4 percent surtax on incomes over $500,000. Additional proposals impose a tax on individuals who don't sign up for health insurance, creating an employer "pay or play" mandate and raise taxes on medical device manufacturers. From 2010-2019, Congress is proposing raising taxes on Americans by $725 billion to pay for their healthcare proposal.

Congressional leadership wants to spend up to $1.5 billion and tax Americans $725 billion over the next decade. Your Utah Taxpayers Association believes that this staggering tax hike does not represent the interest of Utah taxpayers.

2009 Election Results: Public Safety and Granite Bonds Pass; Mike Winder Wins

The Utah Taxpayers Association endorsed three bond proposals and two candidates on the November ballots.

First, the Taxpayers Association endorsed Salt Lake City's $125 million bond to rebuild the Salt Lake public safety building. The current public safety building is in desperate need of repair, with water and sewage leaks and structural deficiencies. Salt Lake City voters passed the bond with 65.7 percent in favor.

Second, the Association endorsed the Granite School District's bond. Granite School District has operated without debt since 1996 and made all capital improvements on a "pay as you go" basis. However, the district is facing significant infrastructure costs and proposed a $256 million bond to rebuild several schools. The bond passed with an overwhelming 72 percent voter approval.

The Association also endorsed Duchesne County School District's proposed $49 million bond. The bond funds were intended to replace Altamont and Union high schools and build new a elementary school in Roosevelt. The bond failed to pass with 59.1 percent of voters rejecting the bond.

In West Valley City, the Taxpayers Association endorsed Mike Winder for Mayor. Winder was successful, garnering 76.24 percent of the votes and defeating Kevin Fayles. Finally, the Association endorsed Bill Barton for the West Valley City Council At Large seat. Barton received 42.8 percent of the votes and was defeated by Don Christensen.

West Valley City Mayor-Elect Mike Winder

Jack A. Olson, Former Head of Association, Passes

Jack A. Olson
Former Association President

Utah's taxpayer advocate for more than a quarter century, Jack A. Olson, passed away on November 5, 2009 of natural causes at the age of 84. Mr. Olson served as Executive Vice President of the Utah Taxpayers Association for 26 years, replacing Dr. M. Hyrum Harris in 1964 and retiring in January 1990. (The Taxpayers Association was founded in 1922.)

Mr. Olson expanded the mission and membership of the Association, working to prevent tax and spending increases at the state legislature, 29 counties, 40 school districts, and major cities in the Beehive State. He took the association's membership from a few hundred to over 2,000 members, making it one of the largest statewide taxpayers associations in the nation.

"Jack was a fearless defender of taxpayers, he took on politicians when they proposed unreasonable tax increases," said Senator Howard Stephenson, current President of the Utah Taxpayers Association. "He led the Association through the nationwide taxpayer revolt in the late 1970s and the 1980s, attempting to convert taxpayer outrage into constructive outcomes."

Mr. Olson fought to ensure that all taxpayers, large and small, homeowner and business were treated similarly. At the same time, he supported circuit breakers for the poor and other measures to reduce the regressivity of the tax system.

"One of the first people I met at the Legislature was Jack Olson," said Senator Lyle Hillyard (R-25). "I found him very engaging, not only because of his understanding of tax policy, but because of his deep respect for Utah and the taxpayers he represented. He left a lasting mark on me, and made Utah a better place."

He was a trusted and respected tax expert, often the first person legislators and local elected officials turned to for advice on complex tax and spending issues. Believing that essential government services needed to be supported, occasionally he was known to recommend small tax increases early in order to avoid large tax hikes later on.

Mr. Olson kept the Association's staff small and lean, believing he couldn't demand lean government if his own office was not following that ideal. Operating the Association with only a secretary for many years, he hired Howard A. Stephenson as research analyst in 1977, who later was tapped to head the organization when Mr. Olson retired.