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THE UTAH TAXPAYER

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Utah Legislature Acts on Tax Reform at Special Session, Includes $160 to $200 Million Net Tax Cut

After many months of deliberation and public meetings, the Utah Legislature passed Senate Bill 2001 - Tax Restructuring Revisions (Hillyard) in a special session on December 12th.

The refinement that has taken place over the last nine months has produced legislation that will deliver a significant ongoing tax cut to taxpayers. It ensures that Utah maintains and improves its position as the best state in the nation in which to live and do business.

The Utah Taxpayers Association has been involved in a countless number of meetings over the last year on the bill with House and Senate leadership, legislators, legislative staff and the executive branch. We commend the members of the Tax Restructuring and Equalization Task Force for their innumerable hours and effort traveling the state, taking input from the public and the many stakeholders.

There has been much misinformation and misunderstanding in the public debate and as Utah's Tax Watchdog it is our mandate to set the record straight. First, SB 2001 (2019) provides *a significant tax cut* to Utah taxpayers. It delivers a $348 million income tax cut by lowering the rate from 4.95% to 4.66% that will go into effect early in 2020. This alone is critical in keeping Utah ahead of other states that are nipping at our economic heels as the best place to live and do business.

Second, it gives back $132 million to taxpayers who were hurt (yes - hurt) by Utah's link to federal tax reform in 2017 which caused the unintentional elimination of personal exemptions on Utah's income tax. This bill corrects the very problem that many Utah families experienced when they saw their state income taxes increase in 2018. The Legislature should be commended for this overdue update. There is an additional one time rebate of $60 million to Utah taxpayers related to the exemption that will be distributed early in 2020.

Third, it provides benefits for those with low and fixed incomes. It slashes $18 million in taxes on social security for senior citizens. For many low income senior citizens, it could entirely eliminate the state income tax on their social security income. In addition, the bill enacts an earned income tax credit for those undergoing intergenerational poverty, providing an additional $6 million to these families.

Fourth, the bill restores the statewide portion of the sales tax on unprepared groceries raising an estimated $250 million annually and ensuring revenue stability to fund essential services. Taxpayers most strongly impacted by the effects of this change are likely to see an increase in their take-home pay to offset the food sales tax once the tax withholding tables have been changed to reflect the income tax rate cut and the higher dependent deduction amount. This is essentially a pay raise for Utahns which would far outweigh the increase in sales tax they will pay on groceries. That is *before* the effects of the newly created refundable grocery tax credit, which is an additional $135 million tax cut handed directly back to low and middle income taxpayers. That alone will put an additional $500 ($125 per person) in the pocket of a family of four. Any family larger than that will receive an additional $50 per person for this newly-created credit.

Fifth, this bill starts the process of correcting the major problem we have in transportation by removing the sales tax exemption on motor fuel, to be collected at the wholesale level, raising $170 million annually. Currently, gas tax revenue provides less than half of what is needed to maintain and build roads. More than $600 million per year is taken from sales tax revenue to plug that hole. Although the taxes on fuel will likely only be a reliable revenue source in the medium term, the rise of electric vehicles, and more efficient gas-powered vehicles creates a funding problem. The best "user fee" for transportation that we have currently is moving to a road usage charge (RUC). We would hope that this model eventually becomes the primary funding source for transportation.

Sixth, the bill placed sales tax on certain services, including pet grooming, ride-sharing services, and streaming music and video, raising an estimated $43 million annually. Much of this is to create equity between old-economy and new-economy retailers based on the principle that tax policy should not treat retailers of the same product differently depending on how they deliver that product or service.

There are a couple of small issues that your Taxpayers Association would still like to fix, which were included in the bill. Specifically, sales tax will be charged on electricity to ski lifts which is clearly a business input and constitutes tax pyramiding. In addition, the bill raised the State Motor Vehicle Rental tax from 2.5% to 4%, bringing the total state and local tax a car rental customer will pay upwards of 19%. We don't feel that hiking the tax on already over-taxed rental car customers is aligned with the overall goal of broadening the base.

Adding It All Up

All of the tax cuts in the bill add up to a total cut of nearly two-thirds of a billion dollars at $639 million. That not only offsets the additional $478 million in taxes on fuel, groceries and some services that may be collected under the bill, but goes even further and delivers a ***net tax cut*** of $160 million dollars. After factoring in the exporting of a portion of the sales tax on fuel and the additional sales tax on food to out-of-state visitors purchasing these items, the actual ongoing tax cut to Utahns is upwards of $200 million.

The Utah Taxpayers Association congratulates legislative leadership, members of the House and Senate and Governor Herbert on making Utah stronger and keeping it the #1 state in the nation to live in and do business.

There are many other aspects to this bill which we did not cover here. To read the full summary of what the Legislature passed on December 12, click here.

My Corner: The Legislature Has Accomplished Major Tax Reform, Now It's Time to Do Right by Utah's Forgotten Economic Region

Not everyone knows why Utah's economic outlook has been ranked first in the nation 12 years running, the best place to do business, highest job growth, lowest unemployment, and repeatedly #1 on the Family Prosperity Index.

While many factors have affected the positive outcomes which produced these rankings, informed analysts recognize the influence of wise policies advanced by Utah's Legislature and its Governors over the past three decades. But the highest recognition is owed to the voters of Utah who have elected so many courageous and visionary policymakers with the strength to put principle above popularity, work tirelessly to create popularity for sound principles, and enact the best policies based on those principles.

During the debate over Utah's 2007 Tax Reform package and after its passage, naysayers complained about the process and claimed the changes were done to primarily benefit businesses and the rich. After the changes took effect, those naysayers became silent, recognizing that the changes benefited everyone. When the housing bubble burst that December creating the Great Recession, Utah was the least affected and enjoyed the fastest recovery, in large part due to those tax reforms and the rainy-day funds which had been set aside from ending balances over the years.

In the recent Special Session of the Utah Legislature, Governor Herbert and the Legislature showed similar wisdom and courage in the face of loud accusers as they modernized Utah's tax code. These improvements will set the state on sound footing for future economic growth and revenue stability, ensuring funding for education, transportation and other essential services.

I have great confidence in the voters of Utah. I believe they will reject both the ill-informed petition organizers and opportunistic candidates who are seeking to repeal this important landmark legislation.

Essential Next Steps

Utah's enviable business tax and regulatory climate, which has made Utah one of the best states to raise a family, was created by visionary policymakers. Through the 2018 Single Sales Factor legislation, Utah has made its corporate tax system competitive with states which don't impose income taxes. The state has also systematically eliminated tax pyramiding by removing sales taxes from business inputs in nearly all major NAICS code categories.

However, the state still imposes punitive sales taxes on oil & gas exploration and production and non-renewable electric generation. Unfortunately, this has had an adverse effect on the eastern part of the state, most prominently the Uintah Basin counties of Duchesne and Uintah.

The Basin is infamous for the boom and bust cycles which have resulted from the crude oil price rollercoaster. Former Senator Kevin Van Tassell describes the $300,000 boom cycle homes built to house the families benefiting from the high-paying oil field jobs, only to see those families walk away from their mortgages when the next bust cycle hits, leaving the homes to be sold off for as little as one-tenth of their original value.

Years ago, the coal counties of Carbon, Emery and Sevier faced similar threats when the lower cost of producing strip-mined coal in Wyoming and Montana threatened the price competitiveness of Utah's deep-mined coal. Among other actions, the Utah Legislature removed sales taxes on all of the equipment needed to employ mine workers and rejected attempts to impose severance taxes on coal, ensuring the economic viability of families in Utah's coal-dependent counties. This mining sales tax exemption also ensures the international competitiveness of Utah's metal mining operations such as Rio Tinto's Kennecott mine and smelter operation, ensuring the continuation of these high-paying jobs. Non-metal mines continue to thrive throughout the state supported by the mining sales tax exemption.

The Legislature's decision to exempt solar and wind power generation equipment from sales taxes has led to billions of dollars of investment in Utah wind and solar farms, vastly increasing the property tax base of schools and local governments in Beaver and Millard Counties.

Data centers, which can contain as much as $1 billion investment or more in a single site, and require constant replacement of data storage equipment, benefit from the Utah Legislature's sales tax exemption on this equipment. The location of these facilities in the Beehive State adds tremendous new property tax base for schools and local governments without adding to school enrollments due to the low number of employees necessary to operate the facilities.

Passage of the 1995 manufacturing sales tax exemption ensured the Micron's initial investment of more than $1 billion in Lehi and ultimately led to Utah's Silicon Slopes tech boom. The three-year-life manufacturing exemption in 2018 ensures that manufacturers in northern Utah continue to provide jobs for Utah families.

Time to End Tax Pyramiding for Oil & Gas and Electrical Generation

Unfortunately, the oil and gas operations in the Uintah Basin and other oil and gas counties such as San Juan continue to pay punitive sales taxes on all of their machinery and materials consumed in the process, including sand. This sales tax combined with a hefty severance tax makes capital investment less attractive and leaves the region victim of ongoing boom and bust cycles.

Plans are being laid for a railroad to Carbon County to connect the Uintah Basin with the rest of the nation and make it's high quality waxy crude available to other markets. Once the rail link is combined with the elimination of the sales tax on machinery and materials, it is estimated that the current 80,000 barrel a day production could be increased to 400,000 barrels a day. This would ensure jobs and economic viability of the region and would mitigate the boom and bust cycles of the past.

As Utah coal-fired power plants in Carbon, Emery, and Millard Counties are replaced by clean fuel natural gas generation it is important that Utah eliminates the punitive sales tax on that machinery and equipment.

Fortunately, the Legislature will be considering legislation to correct these tax flaws in the 2020 General Session of the Legislature. Senator Ron Winterton's (Roosevelt) bill to eliminate sales taxes on inputs for oil and gas, electrical generation and pipelines has already been approved by the Public Utilities Interim Committee as a committee bill. This long overdue legislation has the full support of your Taxpayers Association.

Online Remote Sales Tax Collections (Wayfair) Getting Stronger - Now $111 Million and Growing

Due to the United States Supreme Court decision in *South Dakota v. Wayfair,* since January 1, 2019, sales tax from online purchases has been collected and remitted for purchases made in Utah. In addition to that, sellers on platforms such as Amazon that are independent of Amazon and just using Amazon as a facilitator, are required as of October 1, 2019 to collect and remit sales tax based on new Utah legislation.

We now have a full three quarters of data that has been collected by the Utah State Tax Commission that helps to estimate how much additional revenue Utah is picking up due to the collection of sales tax on online purchases. The updated ranges are now $9.7 - $14.4 million for the first quarter, $13.4 - $19.9 million for the second quarter and $14.5 - $22.1 million for the third quarter of 2019. The Tax Commission is using ranges of numbers instead of specific numbers since they are estimating revenue from new tax filers coming in since January 1, 2019.

Your Utah Taxpayers Association has examined the last five years of quarterly sales tax data from the Tax Commission to quantify how the various quarters differ. Using historical data, on average, the second quarter revenue comes in 5.44% higher than the first quarter, the third quarter at 10.46% higher, and the fourth quarter at 12.40% above the first quarter. Based on the first three quarters of data and those historical trends, the new revenue from remote sellers is trending stronger than expected. The current annualized figure comes to approximately $67 million.

Policymakers have been operating on a consensus that approximately 40% of online sales fall into the category of “marketplace sellers” that were addressed in more recent legislation. So, since the first three quarters of the year do not include the “missing” marketplace seller revenue that starts on Oct 1, 2019, the $67 million represents 60% of what should be the annual number we might expect. Doing the math gives a number of approximately $111.66 million annually. That is noticeably higher than our previous estimate of $71 million that we wrote about earlier in 2019.

This is new revenue of $111 million and growing that will likely be rolling into the State of Utah’s coffers going forward and your Utah Taxpayers Association will be working hard to remind policymakers about it and make sure they keep their commitment that *Wayfair* revenues will be offset by tax cuts and not used to grow government.

2020 Legislative Outlook Conference to Focus on Maintaining Utah’s Competitiveness and Implementation of Tax Modernization Legislation

On Tuesday, January 7, 2020, the Utah Taxpayers Association will host the 2020 Legislative Outlook Conference at the Grand America Hotel in downtown Salt Lake City.

The conference will focus on the implementation of the tax modernization package that was passed in late 2019, and what taxpayers can expect for the 2020 General Session.

Speakers will include Governor Gary Herbert, President Stuart Adams, and Speaker Brad Wilson, as well as leaders from the Tax Commission and top economists in Utah.

A few seats are still available, so RSVP to bren@utahtaxpayers.org. The event is free.

Utah's State and Local Government Tax Burden Falls Below National Median

Utah's state and local government tax and burden ranked 30th highest in the U.S. and below the national average during Fiscal Year (FY) 2017, according to the Utah Taxpayers Association's annual calculations in the How Utah Compares report. Tax burden is expressed as the percentage of total personal income (FY 2019) consumed by state and local taxes (FY 2017). Data is sourced from the U.S. Census Bureau's Census of State and Local Government Finances and personal income data from the Bureau of Economic Analysis are used to calculate the burden of various taxes in all fifty states.

Two of the major taxes examined in this report (individual income and property) decreased in tax burden, while two (sales and motor fuel) increase in overall tax burden from the prior year. Overall, Utahns tax and fee burden (excluding higher education costs) decreased 0.26% from FY 2016.

Generally, tax burdens and government revenues as a percent of personal income increase during periods of economic growth as corporate profits, and capital gains increases faster than total personal income. During a recession, tax revenues decrease faster than total personal income. During the Great Recession, the Utah Legislature adapted to lower tax revenues and relied on an influx of federal revenues to fund programs.

While user fees are frequently a sound method to fund government, government can simply increase reliance of fees to avoid tax increases. As a result, taxpayers end up paying more dollars for the same services.

As a part of that, the state and local taxes and fee burden has increased, but state and local taxes have decreased in Utah. As we have seen, particularly with local entities seeking to raise revenue, they refuse to raise property taxes through Truth in Taxation because they perceive it to be difficult. They often choose to raise fees instead to fund government services, which is less transparent.

Utah's total tax and fee burden of 13.38% of total personal income, which is highest among neighboring states. Utah's income tax also ranked highest among states, however, both Nevada and Wyoming do not levy an income tax. The extraordinarily high income tax ranking can be attributed to exponential income tax growth, and leads the argument for additional income tax cuts, following the 4.66% income tax rate which will be enacted in 2020.

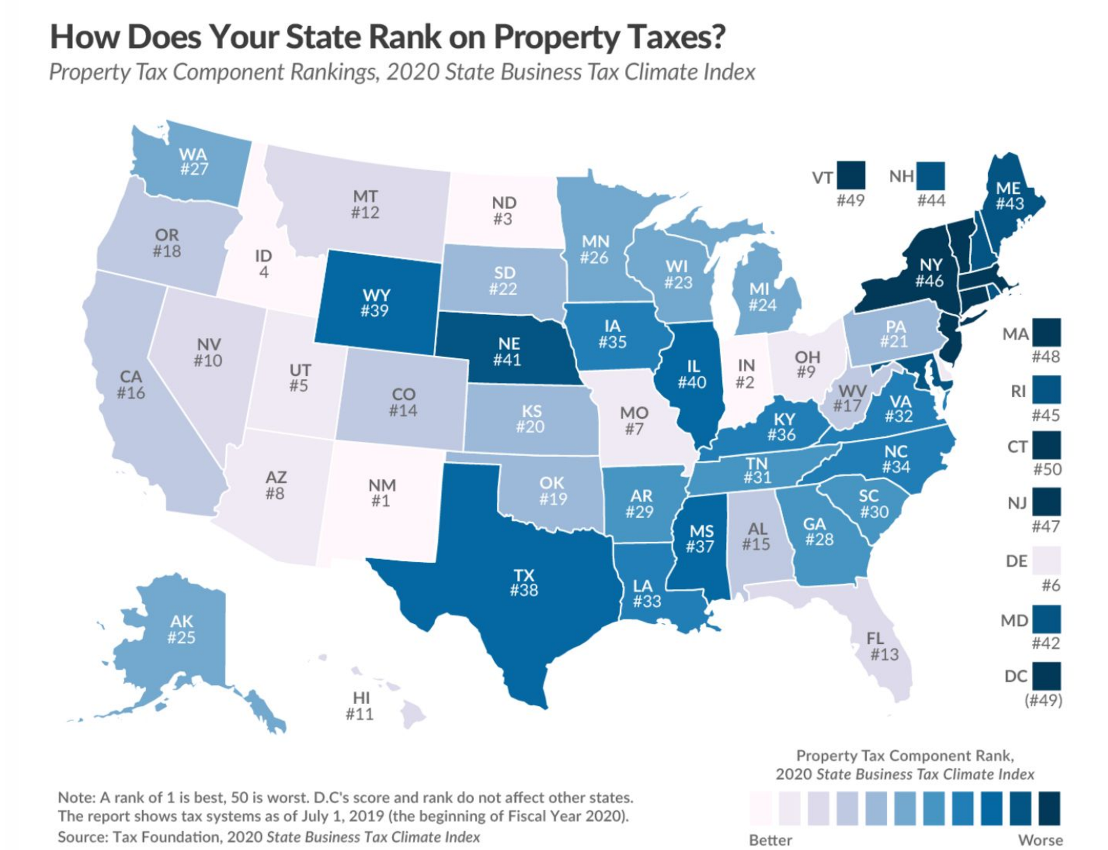
Utah and Neighboring States Tax Burden Comparison, FY17

State	Taxes and Fees		Individual Income Tax[1]		General Sales Tax[2]		Property Tax	
	Burden	*Rank*	*Burden*	*Rank*	*Burden*	*Rank*	*Burden*	*Rank*
Arizona	9.74%	48	1.07%	40	2.99%	8	2.40%	33
Colorado	11.11%	36	2.00%	30	2.22%	21	2.56%	29
Idaho	11.04%	38	2.12%	26	2.12%	27	2.24%	36
Nevada	11.07%	37	-	-	3.63%	4	1.99%	42
New Mexico	12.87%	16	1.51%	38	3.79%	3	1.87%	45
Utah	13.38%	9	2.43%	15	2.23%	20	2.16%	39
Wyoming	12.28%	21	-	-	1.83%	35	3.42%	12

To view the entire How Utah Compares, click here.

Utah’s Property Taxes Continue to be Recognized as One of the Best in the Nation

Utah is unique when it comes to levying the property tax. While all states impose the property tax and use both rates and property values to determine the amount paid by a property owner, Utah also looks at revenue generated by the property tax from the prior year. For those that aren’t familiar with Utah’s Truth in Taxation law that has been in existence since 1985, it has been a hidden gem in keeping property taxes low in Utah.



Under Truth in Taxation, the certified tax rate ensures taxing entities only receive the previous years property tax revenue plus any new growth (new rooftops, buildings). If entities want to collect more revenue by exceeding the certified tax rate, they must go through the Truth in Taxation process, in which taxpayers are sent notices that quantifies what the tax increase mean to their property taxes and hold a public hearing. During that public hearing, elected officials have the opportunity to make their case as to why they feel they need to raise taxes. It is a great process that makes sure tax decisions are done in the sunshine. It doesn’t prevent any taxing entity from raising taxes , it simply ensures that it is done with full disclosure.

Recently, the Washington, D.C.-based Tax Foundation published their annual “Business Climate Index”, which once again shows Utah as one of the best states for its property tax laws in the nation. Utah’s 2020 rank is #5, a rank that Utah has now held for over 4 years in a row. The ranking takes into account taxes on capital stock, tangible and intangible property, inventory, real estate transfers, estates, inheritance, and gifts

Your Taxpayers Association has heard from many members, as well as individuals across the state saying how arduous the tangible personal property tax is for their businesses. So we successfully advocated for a $15,000 exemption in the personal property tax in the 2019 General Session. This will provide relief for thousands of small businesses that are often subject to audits to find the cost and depreciation for office items that are integral to their business operations.

The differences by region in economics, politics and tax policy throughout the various states can be seen in the map. Virtually all of the worst ranked states are in the upper northeast corner of the country and all of the best ranked states are in the west or midwest (New Mexico, Indiana, North Dakota, Idaho and Utah).

The Tax Foundation's ranking is another validation for Utah's Truth in Taxation law, which your Taxpayers Association worked to enact in 1985. This study provides yet another reason to adamantly defend this law from being weakened.

Association Accomplishments During December:

- Advocated for tax modernization legislation during Legislative Special Session
- Spoke at and published analysis of Utah and Utah counties Truth in Taxation hearing
- Attended American Legislative Exchange Council States and Nation Policy Summit
- Planned 2020 Legislative Outlook Conference
- Released How Utah Compares report

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