



THE UTAH TAXPAYER

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Another Utah City Looking to Wade into the Mire that is Municipal Fiber

This November, the residents of Kaysville will be voting on a proposal to have the city issue \$22 million in debt to finance the buildout of a government owned fiber network. Evidently, the proponents of the project did not get the memo that the Berlin Wall fell more than 30 years ago, and the great experiment with government ownership of society was a failure. As we see far too often, government officials are quick to come up with unrealistic plans and pipe dreams when taxpayer money is available.

Previous attempts at government run fiber in Utah have been a failure. The greatest example of this is Provo City's foray into this arena about 15 years ago. The city borrowed and spent \$39 million dollars on the buildout and soon after completion, things went off the rails. What city leaders failed to realize is that in addition to the initial construction cost of building out a basic fiber network, frequent and expensive technology upgrades are necessary in order to remain current in such an innovative field. Government entities rarely consider this fact, however, and thus grossly underestimate the true costs of the project. After several attempts to sell the system at a steep loss, Provo handed the whole system over to Google Fiber for the paltry sum of one dollar. It was a complete loss and the taxpayers of Provo were left holding the bag.

Around the same time in the early 2000s, another government run fiber system was launched known as UTOPIA. With about a dozen or more participating cities around the state, the project has hemorrhaged cash and amassed debt for more than a decade now. Participating cities were romanced into the idea that they would never be called upon to use their critical sales tax revenue to rescue the project or pay its debts. Within just a few years (2008), that promise was broken and member cities are now forced to pump millions of dollars of badly needed sales tax revenue into debt service costs to keep the lights on. According to the most recent June 2019 financial report from UTOPIA, a total of \$14.4 million was drained from cities budgets. The biggest victims are West Valley City at over \$4 million and Orem at over \$3.1 million for that budget year alone.

One of the other major flaws in the projections for the Kaysville fiber project is the "take rate" they are assuming in their financial model. Take rate is the projection of the percentage of residents that will sign up for the service. Their materials cite an "expected case" of 50%-58% and a "self-sustaining" rate, where subscribers would be high enough to pay for the debt costs, of 38%-44%. We believe those assumptions are wildly optimistic. For example, out of 14 cities that have launched UTOPIA in Utah, there are only two cities, Woodland and Lindon, that have a take rate over 40%. All of the other cities have take rates that are much lower with the vast majority of them being between 20% and 30%.

This idea is a solution in search of a problem. Kaysville already enjoys [99.6% broadband coverage](#) by private industry and ranks 11th best in the state on that metric.

In addition to all these specific problems, on principle, government should not be competing with private enterprise. This is particularly egregious when private industry already delivers the product or service to virtually the entire city.

We think it is only a matter of time before the project fails to gather enough subscribers to pay the debt service costs on the \$22 million for this project and Kaysville taxpayers will be forced to funnel badly needed sales tax revenue away from police, fire and other city services to bail out the project. Your Taxpayers Association strongly urges voters in Kaysville to vote NO on this proposal on November 3rd.

My Corner: COVID 19: Utah State Tax Commission Works to Ease Tax Issues for Taxpayers

When a new sort of virus infection was officially identified as COVID-19 on January 7, 2020, there were many unknowns, not the least of which included effects on the economy and the tax revenue stream for Utah state and local governments.

In the wake of COVID's devastating effects, who would have thought the Utah State Tax Commission would change to make life easier for taxpayers?



Employees Working from Home

As cases of COVID-19 reached Utah and a statewide quarantine was implemented, the Utah State Tax Commission deemed it necessary for most of its employees to start working from home. Tax Commission employees worked to ensure the transition was seamless to taxpayers, fielding the normal amount of telephone calls and requests for assistance that occurred during that time of year.

Even though the front counter at the Tax Commission was closed from about mid-March to mid-May, internal policies were modified to ensure all services could continue to be performed. Examples included: different forms of payment such as e-check and credit cards being permitted for taxpayers seeking to release a lien and tax appeals moving to online hearings with Tax Commissioners and administrative law judges conducting proceedings through virtual services.

Collection Efforts of All Types of Taxes Suspended and Modified

On March 15, all tax collection activities were suspended and only inbound calls were handled. Phase in of normal collection activities commenced on April 15 and were completely operational by June 15. The collection activities were phased in with a focus on customer service. Taxpayers were urged to set up payment plans they could afford including lower monthly payments and extension of payment time periods.

The Tax Commission suspended all garnishments from about March 15 to May 15. Both bank and wage garnishments have resumed with some exceptions:

- Leniency was granted to taxpayers that had responded to the Tax Commission to declare a time of financial hardship. Payment terms were set up to assist these taxpayers with their finances. Unfortunately, those suffering financial hardship who would not respond to Tax Commission outreach missed out on these easier payment terms.

- Bank garnishments were suspended until June 15 to ensure that stimulus payments were not garnished. A modified payment agreement was established for those financially impacted by COVID-19 with the following provisions.
- It allowed taxpayers to skip payments for a time period.
- Taxpayers were allowed to modify payment agreements to a lower monthly installment.
- Taxpayers could claim hardship which delayed collection activity for a period of time.

Income Tax Filing Deadlines Extended

In late-March, the IRS moved the 2019 income tax filing deadline from April 15 to July 15, 2020. The Tax Commission reviewed the state statutes and found that this resulted in an automatic extension for individuals only. Almost 360,000 Utah taxpayers took advantage of that opportunity, which represents about 26% of total filers.

Unfortunately, Utah law did not permit the Tax Commission to extend the date for filing and payment of corporate income tax. On March 26, 2020, the Tax Commission approved an emergency rule (R861-1A-42) waving late filing and late payment penalties for calendar year corporations, if filed and paid by July 15, 2020.

This brought parity for corporate tax return filers with individual filers since the Tax Commission lacked the statutory authority to extend the filing date for corporate taxpayers. The Legislature agreed with the Tax Commission's position and in a special session in May, extended the filing and payment deadline for calendar year corporations to July 15, 2020.

DMV Challenges

On March 28, 2020, the Division of Motor Vehicles (DMV), closed the lobbies of all locations to reduce face-to-face interactions and reduce the spread of the virus. It also allowed time to install protective shields and social distancing lines. During the remodeling, patrons were required to conduct business through the drive-throughs, which unfortunately, resulted in very long lines of cars and frustrated patrons.

The DMV encouraged people to conduct as much business as possible online or through "on the spot renewals." When the lobbies were reopened in late-April, DMV established an appointment system to help ease the long lines at the drive-throughs.

A blanket renewal of International Fuel Tax Agreement (IFTA) permits were extended until July 15, 2020 to ease the burdens on the trucking industry.

Payroll Tax Deferral

By an Executive Order entitled "Presidential Memorandum of August 8, 2020," President Trump approved a deferral of a portion of employee payroll taxes. This met with heavy resistance from employers in both the private and public sector.

There were primarily three objections to the Executive Order:

1. The cost of reprogramming payroll systems,
2. Deferrals had to be paid by the taxpayer when taxes were filed, and
3. In the cases where taxpayers did not pay back the deferred taxes, employers were required to pay back the deferred taxes for their employees.

The Tax Commission recommended against applying the deferral for state employees, citing a significant amount of programming which would have been involved, and the prospect of employees having to repay the

deferred tax by a reduced paycheck in 2021. There was also concern about liability for the state if employees left before paying back the deferred taxes.

Commission's Customers: The Taxpayers

We commend the Tax Commission for the way it faced the many unforeseen challenges in 2020 and the way the business of the Tax Commission continued with few interruptions and with sensitivity to the individual and business taxpayers of Utah.

While Utah's Tax Structure Remains One of the Best in the Nation, Utah Remains at a Disadvantage Due to Federal Stubbornness and Intervention

Western states are unique in that for many of us, the majority of our land is owned and managed by the federal government. West of the Rockies, over 50 percent of the land is federal, while in Utah that number rises to nearly 67 percent.

Utah is faced with challenges unknown virtually to the rest of the country – artificially stagnant populations and economies in some areas of the state, hampered infrastructure development, and in many cases, the near impossibility of connection to surrounding areas and communities. Add to this the fact that the federal government has deprived states, counties, and local jurisdictions from the ability to collect ad valorem taxes on this land.

Without a property tax base, surrounding communities are deprived of money that is vital for the funding of schools, roads and public infrastructure, firefighters, police, and search and rescue programs and equipment. The financial pressures placed on these communities by visitors to public lands greatly exacerbates the already existing inequities and strains minimal budgets.

This has led to action from the Legislature to try and make these communities whole. During the 2020 Session, a bill was proposed that led to a discussion of perhaps creating a statewide sales tax earmark to help fund search and rescue operations in these tourism-heavy areas. Fortunately, the bill was amended down to provide potential credits for search and rescue insurance advertising.

In 1976, when Congress made the decision to cease what had been the policy of the ongoing disposal of public lands and hold the remainder, mostly in the west, in perpetuity, they implemented a program called Payment in Lieu of Taxes, or PILT. These yearly payments were intended to offset the disproportionate burden placed on states and communities by providing funding to replace the loss of property tax revenue from these surrounding federal lands. PILT has never done an adequate job, though these communities are necessarily dependent on the small portion they do receive. Colloquially, the program is known as Pennies in Lieu of Trillions, as only a fraction of the estimated tax that would otherwise be due on these lands is paid through PILT.

Recently, the Utah State Legislature passed [a resolution](#) based on an analysis they had commissioned, that showed Utah's communities were receiving approximately 8 percent of the estimated tax value of federal lands in the state. The resolution calls on the federal government to fund PILT payments at the full property tax equivalency amount, and it passed unanimously in the Senate and with near unanimous support in the House.

Senator Mike Lee has been leading the effort in the Senate for years to ensure that Utah and other states are compensated fairly for the burden of federal lands in their communities. In order to further this effort, he recently introduced an amendment to the HEALS Act that would require the Department of the Interior to perform a study and develop a modeling tool to determine the actual fair tax equivalent value for all federal lands, both in Utah and throughout the country.

In Utah, where the impacts are sorely felt, this is clear to lawmakers on both sides of the political divide. When PILT was first instituted, there was really no efficient way to determine the value of over 600 million acres of land strewn across the United States, but technology has changed the possibilities. If the federal government is going to hold lands in perpetuity, it is incumbent upon them to pay the tax equivalent amount that would be required of any other landowner so that our rural communities can have the resources necessary to host the nation, and the world, on Utah's public lands.

Interim Committee Examines Sales Tax Exemptions, Taxpayers Association Urges Against Tax Pyramiding

In its September meeting, the Revenue and Taxation Interim Committee discussed Utah's current sales tax exemptions.

Your Taxpayers Association has long argued for a broad sales tax base and a low sales tax rate. The exception to this is using these exemptions as tools to eliminate tax pyramiding. Economists from across the country, as well as the Taxpayers Association, have strongly urged against taxing business inputs, and Utah and its policymakers have generally followed that advice.

The term "business inputs" refers to purchases that businesses make as a part of their production or operations. Tax policy experts nearly universally agree that sales taxes should be imposed at the final stage of consumption only, and not during the various stages of production or development.

Utah has 89 sales tax exemptions, which include these exemptions for business inputs. But the others also help Utah taxpayers in some circumstances by reducing complexity, lowering end consumer costs, avoiding double taxation, or to promote behavior.

According to the national Washington, D.C. based Tax Foundation, Utah ranks 27th in the country for sales tax breadth. Essentially, roughly 34% of all purchases made in the state are subject to the sales and use tax.

For example, Utah exempts sales tax from purchases of prescriptions, which lowers the consumer cost for what can be vital expenses.

Tangentially related, Utah policymakers decided over a decade ago to reduce the sales tax on food, from the statewide general sales tax rate down to 1.75%. While food is a vital expense, it also significantly reduces the volatility on the sales tax as a whole.

In recessions like the one the country is experiencing, restoring the sales tax on food (as had been proposed in 2019's tax reform efforts), could have led to the avoidance of cutting important government services, such as health care for the needy, public safety, and social work for individuals experiencing homelessness.

These sales tax exemptions can also be used to avoid double taxation, such as removing the sales tax on gasoline purchases. While taxpayers do still pay a federal and state gas tax, the sales tax is not applied to sellers of gasoline, and those savings are passed onto the consumer.

While a reexamination of certain sales tax exemptions are important to ensure efficiency, it is crucial that policymakers remember that many sales tax exemptions provide benefits to the consumer, families, and Utah businesses and contribute to the strengthening of Utah's economy.

Association Accomplishments During September:

- ❖ Spoke at multiple city council meetings across the state to oppose proposed carbon-free power project
- ❖ Presented to the Revenue and Taxation Interim Committee regarding tax policy to strengthen Utah's economy
- ❖ Interviewed legislative candidates about tax policy principles

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