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Taxpayers Win in Special Session

SB 1001 Equalizes Taxpayers Right to Refund

As your Utah Taxpayers Association, one of our primary goals is to create a more equitable and fair tax code. In mid-August, the Utah State Legislature met in a special session and passed Senate Bill 1001. This legislation corrects an inequity in the state's corporate income tax code by applying the statute of limitations equally for both tax deficiencies and tax refunds.

Senate Bill 1001 addressed a recent change in a more than 80-year practice followed by the Utah State Tax Commission. Historically, the Tax Commission has given taxpayers the same amount of time to ask for a refund as the government had to determine deficiencies under the statute of limitations. However, due to some ambiguous statutory language, the Auditing Division of the State Tax Commission inappropriately changed its historical interpretation of the refund statute, determining that the taxpayer did *not* have an equal window of time to seek specific refunds as that given to government to collect taxpayer deficiencies. Now $6 million in refunds owed by the government to taxpayers are being delayed.

SB 1001 clarified Utah law to allow for a credit against or refund of an overpayment of corporate franchise or income taxes so that the Tax Commission is not able to issue deficiencies during periods when taxpayers are not also eligible to refunds.

During the 2015 General Session earlier this year, lawmakers approved SB 94, an earlier version of SB 1001. However, the governor vetoed the legislation due to a technical issue surrounding implementation.

Specifically, that version would have required the Tax Commission to hold refunds for up to a year and a half for taxpayers who were owed a refund.

Now that the governor has approved the bill, taxpayers will have the same window of liability as the government in owing and repaying tax dollars.

The Utah Taxpayers Association applauds the Legislature and Governor Herbert for addressing this matter. The passage of SB 1001 prevents negative fallout for Utah's attractiveness as a place for businesses to locate and expand.

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Association President Howard Stephenson

My Corner: Phase-in option appropriate for Single Sales Factor Legislation

As Utah's lawmakers contemplate expanding the use of the single sales factor method in determining corporate income taxes to all of Utah's businesses, they should consider using a phase-in implementation in order to minimize the financial impact of the change to the state budget. This method would also provide an immediate payoff in attracting businesses to the state and encourage economic growth.

Under Utah's corporate income tax, many multistate businesses are already allowed the option to use the single sales factor method when calculating taxes. That means instead of having the corporate income tax determined by a combination of Utah based property, sales and payroll taxes, the company can elect to have its taxable profits apportioned by the percent of its total sales volume that occurs inside Utah.

Utah already allows many businesses in the state to use the single sales factor option, but has left out businesses in manufacturing, mining, and natural gas distribution. Your Utah Taxpayers Association has made fixing this inequity a top priority for the 2016 legislative session.

One hurdle that stands in the way of passing this legislation is the initial fiscal impact this change will have on the state. Typically, legislative fiscal notes are "static", which means they only show the estimated loss of revenue to the state budget. The notes fail to show what positive impacts the legislation may have on the state's economy such as increased wages, job creation, and allowing businesses to have more money to reinvest into their production; all of which would yield greater tax revenue for the state in the long run.

To overcome the potential decrease to the state budget from a "static" fiscal note, lawmakers should use phase-in implementation when they decide to allow businesses the ability to use single sales factor. A phase-in approach would allow the state budget to recover quickly from the initial revenue loss that could occur, while still allowing for additional and new economic growth in job creation, wages and investment. Businesses will locate or expand in Utah knowing the single sales factor is being phased in.

Phase-in programs are sometimes frowned upon by the legislature, as they are viewed as a gimmick to get around finding financing for a particular project in a year when the budget is tight. However in this case, phasing in single sales factoring will do a number of things.

First, it sends the message that Utah is continuing its business friendly practices and attracting new businesses to the state. Second, it also allows time for the state to adjust to the financial changes while allowing businesses to grow and make up for the initial loss to the state budget.

Overall, this is an investment in Utah and the businesses that choose to locate here. More than 16 states have already passed the single sales factor options in their tax code. To ensure that our state remains one of the top business-friendly states in the nation, Utah should move forward with expanding this option for all of its multistate businesses.

Tax Hikes Approved by 30 Entities

In August, your Utah Taxpayers Association evaluated more than 30 city, school district, and special service districts' proposed property tax hikes. After reviewing budgets and offering recommendations for avoiding a tax increase, the Association attended and testified at the following hearings.

Salt Lake City School District

The Utah Taxpayers Association was the only voice of opposition against Salt Lake City School District's $1.5 million property tax hike. Even though the district is enjoying a large funding increase from the Utah State Legislature this year, the district sought to raise taxes to recover the money that is diverted from the

district when a student leaves for a charter school.

This practice is unfair to taxpayers as property owners have already paid for those students through the district levy, and the district still keeps 75% of the funds that it receives, even though the student transferred to a charter school.

This was the second year in a row that the Salt Lake City School District voted to increase property taxes. Multiple school board members noted that they had not heard from any constituents indicating that the tax increase would be too much to bear.

Granite School District

This year, the Granite School District will be receiving a net increase of $15 million in new revenue. Despite this, the School Board still pressed ahead with a $3.8 million property tax increase.

The school district's justification for the tax increase was again, local replacement funding for charter school students. In addition, residents in the Granite School District should have seen a tax decrease thanks to some debt restructuring, but instead the Board decided not to give property owners the tax break they deserved and instead kept those revenues to pad the budget.

Your Utah Taxpayers Association, along with two district residents spoke in opposition to the tax increase.

Murray School District

The Murray School Board also voted to increase property taxes to recover money lost when students opt to attend a charter school. The district voted for a hike that will increase revenue by $600,000 annually. Your Utah Taxpayers Association again argued that the district was unfairly charging taxpayers for these students.

At the hearing, multiple property owners informed the board that the increases were becoming too much for taxpayers to handle, but the board justified its hike by explaining that the school district is not growing, and does not have the revenue it once had.

The superintendent also argued that the school district is receiving $2 million less than it did prior to the great recession. He hopes the district can return to those pre-recession levels in the future.

Salt Lake City

The Salt Lake City Council approved a $4.7 million property tax increase before a nearly empty council chamber. City officials argued they were simply carrying the same tax rate from the previous year and not technically raising taxes.

Your Taxpayers Association reminded the council that using this argument for raising taxes is flawed. It was explained that the city would not be using the same practice if keeping the same rate produced lower revenues for the city, which could happen if property values dropped.

Councilman Kyle LaMalfa acknowledged the Association's latest Cost of City Government Report and the report's finding that Salt Lake City is one of the highest taxing cities. He observed that Salt Lake City has unique needs when compared to other cities.

Jordan Valley Water Conservancy District

By unanimous vote, the Jordan Valley Water Conservancy District Board of Director approved a $650,000 property tax increase. The district argued that it was keeping the same rate as it has in previous years, but this rate yields more revenue for the entity, thus becoming a tax increase on taxpayers.

The Association explained to the board members for the district that they should be looking to fund projects and expansion through user fees and not in property taxes.

Washington School District

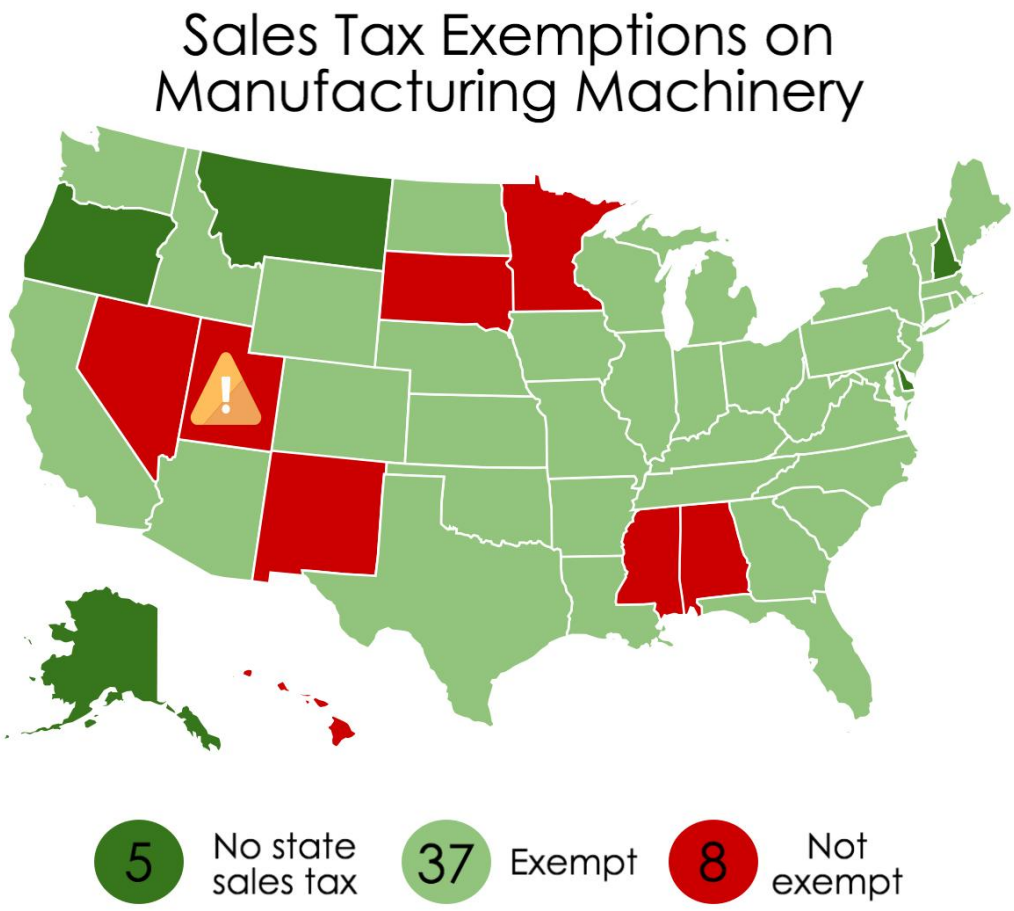
The Washington School District has chosen to again raise taxes for the second year in a row. The district's Board of Education defended the increase, netting more than $1 million in additional revenue, saying it was raising taxes to keep up with inflation. That same reasoning was used for raising tax rates the previous year.

Your Utah Taxpayers Association attended the hearing and expressed strong opposition to the district's tactic of raising and re-raising taxes each year.

Taxing Manufacturing Inputs Hurts Utah's Record as a Business-friendly State

Tax experts have long agreed that the most equitable and effective tax policy places taxes on finished products instead of inputs to production. While Utah is often praised as a tax-friendly state for business, the state still has a black eye when it comes to sales taxes on manufacturing inputs. In fact, Utah is one of only 8 states that still interferes with economic growth by taxing manufacturing inputs. Your Utah Taxpayers Association has been working hard to ensure this process gets fixed during the upcoming legislative session next year.

In 1985, Utah's lawmakers understood that exempting the purchases of manufacturing machinery and equipment from state and local sales taxes for new or expanding companies would strengthen Utah's economy and business climate. The legislature made the important decision to pass such a bill despite the fact that the original cost to the state of the exemption represented nearly 1% of the state's sales and use tax revenues.



In 1995, the Legislature decided that, in addition to encouraging investment from new and expanding companies, it should also encourage existing manufacturers to invest in maintaining their existing operations. The Legislature then expanded the exemption to include normal operating replacements. However, in calculating the fiscal note for the 1985 bill the Fiscal Analyst's Office only considered machinery and equipment with an economic life of more than 3 years because of a Tax Commission rule. In 1996, given that the 3-year life rule was inconsistent with statute, taxpayers requested the Tax Commission to adopt a rule consistent with statute specifying that all machinery and equipment be exempted.

The Tax Commission notified the Legislature that such a reading was consistent with the statutory language, but inconsistent with the calculation of the fiscal note. The Legislature met in a special session in 1996 and added the 3-year economic life requirement to statute in HB 3001 in order to maintain the fiscal note.

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This 3-year life requirement is unique in the country. Of the 45 states with sales tax, 37 of them have a full exemption for manufacturing equipment. Only Alabama, Hawaii, New Mexico, Nevada, Minnesota, Mississippi, South Dakota and Utah do not. Utah is the only state to impose a 3-year life or similar test. The other states exempt all manufacturing machinery or equipment or all manufacturing property.

The time has now come to do what has been done in these other states, what was done in Utah in 1985, and what was intended in Utah in 1995 – to encourage economic growth by exempting all manufacturing inputs (not just those that have more than a 3-year economic life) from sales tax.

The exemption will more than pay for itself as businesses reinvest these savings. Dynamic fiscal analysis completed by the Office of the Legislative Fiscal Analyst show that removing sales taxes on manufacturing inputs would result in corresponding increases to job growth, wages and GDP in Utah. Jobs would increase by 2,799 over five years, wages would increase by $619 million, and GDP would nearly triple. While there would be an immediate decrease in state sales tax revenues, economic growth would cause revenue from the income tax to increase.

When it comes to economic growth, taxes really do matter. The way Utah taxes seriously affects the long-term decisions that businesses make. If Utah wants to create jobs, the legislature needs to accentuate capital accumulation, investment, and productivity. That's where jobs come from.

Utah Taxpayers Association Welcomes New Research Analyst

The Utah Taxpayers Association would like to wish Kelsey White the best of luck at her new position, working as an analyst for a research firm in Utah County. In her place, your Utah Taxpayers Association welcomes Spencer Nitz as the new Research Analyst.

Spencer Nitz was most recently the Social Media Director at KSL Television and KSL Newsradio, where he was responsible for setting strategy and developing the organization's social media properties.

Prior to his work with KSL, he was the Majority Communications Director for the Utah House of Representatives for 3 years, working under the direction of Speaker Becky Lockhart.

In this role, Spencer was directly involved in communicating legislation and relevant other information to the citizens of Utah in an easy to digest way, creating digital and traditional assets to distribute through public and private media sources.

Spencer has been heavily involved in Utah politics since 2011, where he interned for the Utah State Senate and the 2011 Redistricting Committee. When the committee wrapped up their work, Spencer's report to the University of Utah's Hinckley Institute of Politics was published in their annual *Hinckley Journal of Politics*.

Spencer attended the University of Utah, studying strategic communications and political science.

Utah born and raised, Spencer enjoys all that Utah has to offer, from kayaking in mountain lakes to biking through the southern deserts. You could probably catch him in some remote Utah landscape on the weekends, or just on the Internet.

You can reach Spencer at spencer@utahtaxpayers.org.

Utah Taxpayers Association Accomplishments in August

- Spoke at the Granite School District Truth-in-Taxation hearing urging the School Board to vote against a $3.8 million property tax increase
- Spoke at the Salt Lake City School District Truth-in-Taxation hearing urging the School Board to vote against a $1.5 million property tax increase
- Spoke at the Washington School District Truth-in-Taxation hearing urging the School Board to vote against a $1 million property tax increase
- Spoke at the Murray City School District Truth-in-Taxation hearing urging the School Board to vote against a 3% property tax hike
- Spoke at the Jordan Valley Water Conservancy District Truth-in-Taxation hearing urging the Board to vote against a 5.5% property tax hike
- Spoke at the Salt Lake City Truth-in-Taxation hearing urging the City Council to vote against a $4.7 million property tax hike
- Lobbied the Salt Lake County Council to vote against placing a $49 million sales tax increase on the November ballot
- Held a press conference releasing the 2015 Cost of City Governments report
- Participated in the August Special Session of the Utah Legislature and supported the passage of Senate Bill 1001
- Attended the Tax Review Commission meeting to track the use of sales tax earmarks for specific funding projects
- Attended the Charter School Funding Taskforce to monitor discussions regarding a new statewide property tax levy for charter schools

In the News:

- Spoke out against proposed property tax increases in cities and school districts
  - St. George News
  - Salt Lake Tribune
  - St. George News
- Urged the Salt Lake County Council to vote against placing a $49 million sales tax increase on the November ballot
  - Salt Lake Tribune
  - Salt Lake Tribune
- Released the 2015 Cost of City Governments report outlining how much city governments in Utah collect in taxes and fees per resident
  - Jackson Hole News
  - Utah Policy
  - KUER
  - Deseret News
  - KSL
  - Salt Lake Tribune
  - The Daily Herald
- Spoke out against the creation of a new statewide property tax levy to fund charter schools
  - Salt Lake Tribune