



THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

Potential Summer Special Session to Focus on Adjusting to Federal Tax Reform

The Legislature is expected to be called into a special session as early as July to address issues the state and its taxpayers may face due to federal tax reform.

During the May meeting of the Legislature’s Revenue and Taxation Interim Committee, the tax commission raised a host of issues the state is facing due to the passage of the Tax Cuts and Jobs Act last year including how Utah treats foreign income that is brought back into the state by a business, interest deductibility and contributions to capital. Additional issues may also be considered as lawmakers meet with the State Tax Commission and industry leaders to discuss the best way for the state to move forward.

Many of the changes to consider stem from Utah being a rolling conformity state when it comes to federal tax code and how it interplays with Utah’s tax laws; meaning Utah has established is tax code such that it automatically conforms to federal changes. This has been done for ease of compliance for the taxpayer however, the rolling conformity has caused some issues that the state needs to *(continued on page 4)*

Join Us for the “Teed Off on Taxes” Golf Tournament!

The “Teed Off on Taxes” Golf Tournament will be held on Thursday, June 8th 2018 at the Eaglewood Golf Course in North Salt Lake. The event begins at 8 a.m. Sponsorship opportunities are available.

Join us for a fun day of golf, with the opportunity to win prizes such as a Harley Davidson motorcycle, and two round-trip Delta airline tickets to anywhere in the continental United States!

Space is limited at both events.

Contact Bren Robinson at bren@utahtaxpayers.org, [click here to register](#), or call (801) 972-8814 to reserve your spot!

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My Corner: 26 Years of Accomplishments of Association Vice Presidents, Six Taxpayer Heroes



As my 26 years in the Utah Senate ends on December 31 of this year, I want to give credit to the six individuals who headed the lobbying effort of the Utah Taxpayers Association while I have served in the Senate. I enumerated the amazing things these "Taxpayer Heroes" accomplished during

those 26 years at the recent Utah Taxes Now Conference. As I prepared that presentation, it became crystal clear that there is no group more responsible than these six men and the Taxpayers Association staff and members for Utah's designation as Best Economic Outlook for eleven years running (ALEC's Rich States Poor States), Best Place to Do Business, and 8th highest on the Tax Foundation's Business Climate Index. ([Click here to listen](#) to the full presentation at the Taxes Now Conference.)

Here are some of the highlights of the incredible work of the Association Vice Presidents:

Howard Headlee (1991-1997)

Howard Headlee won the fight against unlawful municipal business license fees. A number of Utah cities had begun imposing business license fees amounting to 1% of gross receipts, which was a subversive way of exceeding their sales tax authority.



He and Research Analyst Greg Fredde won a two-year battle to exempt sales taxes on manufacturing machinery and replacement parts. In 1994, in spite of surprising initial opposition from the Utah Manufacturers Association, they got the Senate bill to the House where it was primed for passage with bipartisan support. Governor Leavitt was contacted by the UEA teacher union lobbyists who convinced him to



ask House leadership to take it off the board, which they did. When I heard the news I insisted the

Speaker Rob Bishop put three of my bills at the top of the board. One of these was Senator Lyle Hillyard's bill to restore the citizens' right to referendum on local tax issues.

The following year Governor Leavitt actually helped get the manufacturing exemption through the 1995 session because Micron was looking to locate a huge manufacturing plant in Nebraska or Utah and the exemption suddenly was important to economic development.

Headlee worked to bring "truth" to local Truth-in-Taxation hearings where local entities were using bond retirement tax rate reductions to be totally absorbed by new taxes and then explaining to citizens that they were not increasing taxes. Significant income and property tax cuts were achieved in the 1995 and 1996 sessions.

Greg Fredde (1997-2000)

Greg Fredde headed the Association's lobbying efforts when we won passage of a total revamp of the tax appeal process including Utah Tax Court and Trial de Novo (new trial).

Taxpayers' appeals to the courts had been limited a review of the record at the Tax Commission level of appeal. The trial de novo constitutional amendment passed by voters in 1998 allowed taxpayers to bring new evidence to the court which had not been considered at the Tax Commission.



What's more, because there had been no designated tax-trained judges, taxpayers on both sides of an appeal had to pay their attorneys to educate judges about tax law. Establishing a Tax Court at the district court level ensured the availability of tax-trained judges, saving both sides considerable expense and ensuring more sound rulings.

Greg also helped to win major victories against local property assessors and the Tax Commission Property Tax Division, which were continuing their attempt to impose property taxes on intangibles such as a company's good-will, going concern, and patents and trademarks. In spite of the courts repeatedly striking attempts to impose property taxes on intangibles, it finally took the legislature to ensure the practice would stop.

Because taxpayers had to pay the excess taxes on intangibles before they could have standing to sue, local taxing entities had spent the money and judgment levies had to be imposed on all taxpayers to pay back the excess taxes on intangibles. Fredde did yeoman work in educating legislators about the complexities of intangibles and judgment levies.

When revenue shortfalls occurred, legislators proposed to claw back 20% of the manufacturing and pollution control sales tax exemptions. Fredde helped to convince policymakers that Utah's business climate would be irreparably damaged from the change because no one could ever count on Utah keeping its promise to taxpayers.

Wes Quinton (2001-2002)

Wes Quinton had served as a research analyst for the Association but had moved out of state. He returned to fill the vacancy left by Greg Fredde who was hired to be the President of the Utah Mining Association. Wes immediately defeated a legislative leadership proposal to exempt the statewide basic school tax from Truth-in-Taxation which would have given automatic inflationary increases to school property taxes.

The Association finally was able to get Paycheck Protection, or the Voluntary Contributions Act passed by the Utah Legislature, which ended government collection of political contributions by the unions. The



UEA teachers union had been the single biggest PAC in the state, which made it difficult for many legislators to vote against school tax hikes and support school choice legislation. The law was challenged in court by the teacher union. Your Taxpayers Association joined with Idaho in appealing to the U.S. Supreme Court where even Justice Ruth Bader Ginsberg ruled in our favor. The teacher union PAC is now not even in the top 10 Utah PACs, giving legislators greater courage to vote their consciences.

Wes also assisted with the indexing of Utah's income tax and won passage of legislation severely limiting municipal broadband which resulted in only 11 of Utah's nearly 250 municipalities creating UTOPIA.

Wes also had the unique experience of being in Washington DC on September 11, 2001. He had been attending a National Taxpayers Conference when the tragedy occurred and found himself stuck in the nation's capital while these tragic events unfolded. He later penned an article for our newsletter about his experiences in D.C. on that day and that article touched the head of the Utah Farm Bureau so deeply that he immediately hired Wes away from us.

Mike Jerman (2002-2007)

If you look up in an encyclopedia the phrase "policy wonk" there would be a picture of Mike Jerman. During Mike's time at the Association he built up a reputation for being the one who would know the facts and figures on every issue the

Association took on. In 2002, despite the state facing a \$256 million revenue shortfall, he prevented proposals for tax increases. When the calculations by the Property Tax Division mistakenly miscalculated the certified tax rates he fought to make sure that error was corrected and that taxpayers were issued the proper tax bill.

In 2004 when pollsters said a bond to increase sales taxes to pay for open space in the state would pass, he led the charge to defeat it and won on Election Day. Mike also won in changing when bond elections could be held. Previously, the elections could take place on multiple days throughout the year, Mike worked with



the Legislature to limit those days to the June primary election date or the November general election day to ensure voter participation in these tax decisions.

Also under Mike's tenure we were able to enact double weighted sales factor for the corporate income. The Huntsman tax cuts that lowered Utah's income tax rate to 5% also took place during Mike's time with the Association. Mike left us to join Congressman Jason Chaffetz's staff in D.C.

Royce Van Tassell (2007-2013)

Royce Van Tassell fought vigorously to defeat a bill that was supposed to pass; the bill would have created a taxpayer funded hotel convention center. In the first session this bill came forward it was his efforts that prevented government from competing with the private sector and sent the message that this was not how things are done in Utah. The following year a similar bill came back. Recognizing the legislative leadership backing of the legislation, Royce was able to insert strict requirements into the bill that have essentially made it impossible for a taxpayer funded hotel and convention center from being built.



Royce's efforts also led to the defeat of the RDA that was being proposed to rebuild the Cottonwood Mall. Despite Granite School District wanting to give away millions to developers to assist in the construction of a retail center, he was able to quash the proposal and protect taxpayers from having their tax dollars given away to projects that don't create any new economic activity within the state.

Royce also was part of our multiple efforts to defeat Salt Lake City's proposal to build a new public safety building. Through his work we were able to get Salt Lake to scale down the project and build a building that fit the needs of the city and was taxpayer friendly. When we endorsed the final proposal headlines in the news read that "Hell had frozen over..." because we finally had supported the bond.

Royce also protected taxpayer by defeating Jordan School District's \$500 million Taj Mahal school bond. While the district asked for a blank check from taxpayers, Royce brought out the vote to oppose the bond and send a message to the school district that

taxpayers need to be included in school bond elections not treated as a bank account.

Perhaps no one knows more about the follies of municipal broadband than Royce. To overcome the momentum that was starting up for cities to again ride the UTOPIA train, he put together the data to show the pitfalls of when government tries to compete with the private sector. His efforts to protect taxpayers from the misguided UTOPIA project should go in the Association's hall of fame.

Billy Hesterman (2013-Present)

One of the first projects that Billy took on when he was hired was understanding centrally assessed properties and a ratcheting effect taking place in the certified property tax rate because of how centrally assessed property values are calculated. He was able to jump into the deep end and help pass legislation that protects taxpayers from having their property taxes increase because of a glitch that was in our property tax system at the time.



Billy also championed our efforts to bring a lawsuit against the state of Utah to protect our first amendment right to anonymous free speech. Our organization, along with the Libertas Institute, challenged and won a lawsuit that challenged the state law seeking to block free speech through disclosure requirements.

Most recently Billy was part of our Utah 2.0 effort to change Utah's corporate income tax to further include the single sales apportionment factor and to eliminate the sales tax penalty the state places on business inputs for manufactures and mines. Both of these items were able to pass in the legislature this past year because of his ability to keep these items in front of legislators throughout the years so that when it came time to make changes to the tax code, lawmakers already knew what to consider.

I truly believe Utah would not be in the great shape it is in today if not for these six watchdogs. They've been defenders at every turn in Utah on any major tax discussion. I'm grateful for the work they've done while I have served in the legislature. I'm also grateful to the many research analysts and office managers over this same time. Their contributions to the Association have been key in keeping Utah successful.

Potential Summer Session to Focus on Adjusting to Federal Tax Reform (continued)

address before 2018 taxes start to be filed.

Before the legislature is called into special session, the Revenue and Taxation Interim Committee is expected to examine each of the issues raised by industry and the tax commission to determine what the best path forward is for Utah. The items the committee are expected to examine are:

Repatriation Transition Tax (RTT): The Tax Cuts and Jobs Act changed the United States' income tax procedure from taxing companies on their worldwide income to only taxing income within its borders.

Under the new law, if a U.S. based company brings overseas profits back, those profits will be taxed a rate of 8-15% to the federal government and that tax can be paid over a period of seven years.

State lawmakers will need to determine if Utah should impose its 4.95% income tax rate on that income that a company may be bringing back to the United States or if the state will choose to forego that potential new revenue.

Global Intangible Low-Taxed Income (GILTI): Under this new tax system that has been adopted by Congress, companies are incentivized to move income from intangibles (such as revenue attributed to goodwill of a company name) to low tax jurisdictions.

Because of this, Congress enacted GILTI to allow the U.S. to still receive a 10% tax on this kind of income. The state may also see an increase in revenue from this income if the Legislature chooses not to act. This income would also face Utah's 4.95% income tax rate if no changes are made.

Interest deductibility: This does not refer to home loan interest deductibility rather the deductibility of debt that companies may take on.

Before the Tax Cuts and Jobs Act passed in December of 2017, all interest was deductible. Under the new law, the deduction is limited to 30% of adjusted gross income. Non-deducted interest can be carried forward. Utah lawmakers now need to make the decision whether Utah should follow the federal changes and only allow a certain percentage of interest be deducted or should Utah allow all interest be deductible for state income tax purposes?

Contributions to Capital: The Legislature will also have to consider the change made for when a governmental entity contributes capital to a

corporation through a grant or incentive.

Previously, actions like this had not been taxable but under federal reform it is now recognized as taxable income for both federal and state purposes. Lawmakers may easily choose to not follow the federal government on this tax because if they do not the state will find itself taxing its own economic development incentives.

FDIC Fees: To pay for the tax cuts made by the Federal Government, Congress ended a deduction for premiums paid by the largest banks to the FDIC. If Utah does not take action, these fees will not be included in deductions for Utah income taxes. If Utah makes

changes to its state code to not conform to federal changes than the premiums paid by the banks will remain deductible for the banks.

We also anticipate that state lawmakers will also discuss how Utah should treat Net Operating Loss lookbacks and carry forwards either in the special session or next year in the general session as Congress also adjusted how those are treated at the federal level.

	Description of Federal Change
Repatriation Transition Tax ("RTT")	Historically, the US was one of the rare countries that taxed taxpayers based in their country on worldwide income. With reform, the US is like most countries in taxing only income within its borders (a "territorial" system). This is to motivate companies to headquarter in the US as they will no longer be punished for having overseas operations. As part of this, if US-based companies bring overseas profits home, these profits are taxed at a low rate of 8-15% through the RTT, which tax can be paid over 7 years. This is to incentivize companies to bring these profits home. The tax is paid on a separate form.
Global Intangible Low-Taxed Income ("GILTI")	In a territorial system, companies are incentivied to move income from intangibles (e.g. royalties from a tradename) to a low tax jurisdiction. Congress thus imposed GILTI so the US still gets a 10% tax on this income. Congress gets to the 10% by applying this tax to all jurisdictions then applying federal tax credits for taxes paid, and a 50% deduction.
Interest Deductibility	All interest used to be deductible. Congress now limits the deduction to 30% of AGI to discourage companies from taking on too much debt. Non-deducted interest can be carried forward.
Contributions to Capital	Formerly, when a governmental entity, for economic development, contributed capital to a corporation through a grant or incentive, this was not taxable income. Under tax reform, this is now taxable income.
FDIC Fees	Banks pay premiums to the FDIC to insure deposits. Congress disallowed a deduction for these premiums for the largest banks to help offset the revenue lost from the federal rate cut.

New Report Shows that 29 of Utah’s Top 50 Cities Have an Employee that Makes a Higher Salary than the Governor

According to a new report issued by your Taxpayers Association, data collected shows that 29 of Utah’s 50 largest cities have an employee who has a higher annual compensation than Governor Gary Herbert.

The governor’s total compensation, which includes wages and benefits, in 2017, was \$190,187.59. The top three highest compensated city employees in 2017 are as follows:

- Provo City’s Public Works Division Director, at \$318,530.98.
- Salt Lake City’s Chief of Police, at \$272,551.12
- West Valley City’s City Manager, at \$259,277.56.

The Provo employee’s salary was exceptionally higher than previous years as the employee received more than \$88,000 in “leave pay” in 2017.

Employee compensation is generally one of the top items taxpayers fund each year. As cities are finalizing their upcoming budgets, taxpayers should review employee compensation items in their budgets and

make certain they are comfortable with the level of pay the city is giving to its employees.

City managers, city attorneys and police chiefs are the employees that tend to receive the highest pay at the city level. In 35 of the 50 cities that the Association

Utah cities with at least one employee paid more than the governor:

American Fork	Layton	Provo	Spanish Fork
Bountiful	Lehi	Riverton	Springville
Clearfield	Logan	Roy	St. George
Clinton	Midvale	Salt Lake City	West Jordan
Cottonwood Heights	Murray	Sandy	West Valley City
Draper	North Salt Lake	Saratoga Springs	
Farmington	Ogden	South Jordan	
Kaysville	Orem	South Salt Lake	

examined, the City Manager ranked in the top three of the highest paid employee in the city. The city manager, or city administrator,

is typically the top day-to-day oversight employee and reports to the city council and mayor.

Elected officials for most of the cities receive relatively modest compensation, with the exception of the mayors of Ogden and Tooele, who were compensated \$197,961.33 and \$135,113.28 respectively.

Data for the analysis was taken from the Utah Public Finance Website (transparent.utah.gov). Figures were taken from the 2017 employee compensation tabs contained on the website.

You can read the Association’s full report at www.UtahTaxpayers.org, or by [clicking here](#).

Federal Tax Reform and Options for State Adjustments the Focus for 40th Annual Utah Taxes Now Conference

Over 100 attendees gathered to hear experts from across the country talk about the changes in both state and federal tax code at the Utah Taxpayers Association’s 40th annual Utah Taxes Now Conference.

The focus of the conference was Utah’s options and the need to adapt state tax law in order to comply with federal tax reform and to remain economically competitive.

The keynote speakers, Mr. Joseph Henchman, Executive Vice President of the Washington, D.C. based Tax Foundation, and Jared Walczak, Senior Policy Analyst from the Tax Foundation led attendees through the reasons why federal tax reform was necessary and

options for Utah to adapt to the changes.

Mr. Henchman outlined the need for tax reform at a federal level, including the worldwide average of declining top corporate tax rates, while the United States top corporate tax rate has remained relatively flat since the mid-90s.

In addition, Mr. Henchman detailed the the growth of net income from pass-through businesses, which now outpaces net growth in income from type-C corporations. The federal tax reform package, passed in December of 2017, addressed both of these significant issues through lowering the rates for corporations, and creating deductions for pass-

through entities.

Thanks to the federal tax reform, Utah ought to adjust to remain economically competitive, since a decrease in a federal tax burden can result in increased revenue at the state level. Mr. Henchman said that states do incorporate provisions of the federal tax code to varying degrees, and without adjustments to accommodate, states have the choice to respond through retain revenue, return, or reform.

The keynote presenters also delved deep into revenue sources, tax conformity, and what Utah lawmakers and policymakers ought to do in order to ensure Utah’s economic vitality. [Click here](#) to view their presentation.

State tax reform also headlined the conference, with major updates to Utah’s tax code and funding structure for education and transportation.

On the second to final day of the 2018 General Session, House Bill 293 was unveiled. The 5th substitute, “Tax Rebalancing Revisions”, was a significant change to Utah’s tax structure, particularly when it came to income taxes and funding education. The bill created a static base rate to Utah’s statewide

property tax for education, reduced the individual and corporate income tax rate to 4.95% from 5%. expanded the single sales factor apportionment to all businesses, and several other changes.

As part of state tax reform, the Legislature also passed Senate Bill 233, which seeks to eliminate the three-year life sales tax penalty on business inputs, which is contingent on federal action.

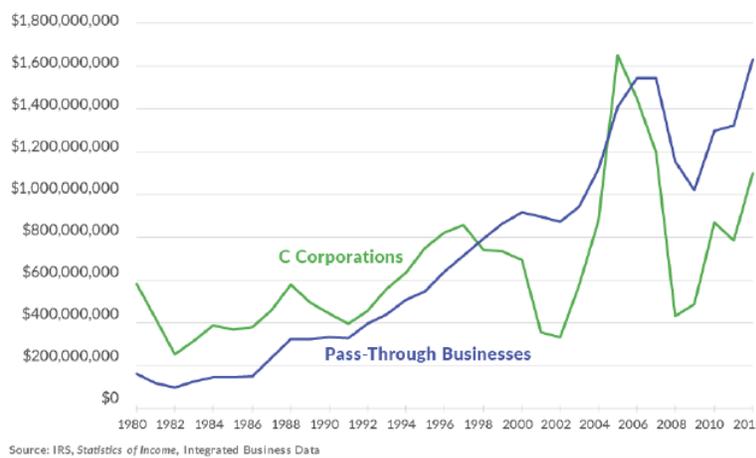
There’s a ton to unpack on state tax reform and your Taxpayers Association’s progress on Utah 2.0. Learn what you need to know about these issues and what it means for your pocketbook by [clicking here](#) to listen to the presentation. While the conference was highlighted by tax reform, many other

presenters gave details on topics ranging from predicting Utah’s economic stability and when we may expect a change in growth to ensuring taxpayers are kept fully informed about the cost of a voter-approved bond.

If you missed the conference, you can listen to the audio from all the presenters and view the presentation materials by [clicking here](#).

Pass-Through Businesses Now Earn More Net Income Than C Corporations

Net Income (Less Deficit) of U.S. Businesses, by Form, Thousands of 2015 Dollars (1980-2012)



Source: IRS, Statistics of Income, Integrated Business Data

Utah Taxpayers Association Releases Annual Guide to Taxes and Fees Levied in Utah

Did you know there are more than 16 different types of sales tax? Or that 55% of property tax revenue collected in 2016 went to public education?

Each year, your Utah Taxpayers Association researches major taxes and fees levied by the state of Utah and compiles helpful information into the Fast Tax booklet.

This reference summarizes major Utah state and local taxes and is updated to include estimated revenues. These taxes comprise all major non-federal state revenue sources such as income, sales and fuel taxes, and most major local revenue sources, including

property, general sales, and specific sales taxes.

This quick reference booklet examines 29 different taxes and fees to provide readers with details of the purpose of a tax or fee, along with how the money is collected, and what agency collects the revenue.

In addition, the Fast Tax booklet provides revenue distribution, the estimated yields from a tax over several years, and any credits or exemptions that may be applicable.

The Fast Tax booklet does not examine municipal utility rates, such as water or sewer, nor

does it cover license fees.

We'd like to thank Parsons, Behle, and Latimer for their sponsorship of the Fast Tax booklet.

The Utah Taxpayers Association would also like to thank the staff of the Utah Tax Commission, Driver License Division, Division of Public Utilities, Department of Alcoholic Beverage Control

Tax Type	PROPERTY TAX	
Statute	59-2-101 to 59-4-102	
Subject	Real and tangible personal property.	
Measure	Valuation is 100% of fair market value for centrally assessed, commercial and personal property, and 55% for primary residential. Farmland assessed at value for agricultural purposes; mining property assessed using discounted cash flow or capitalized new revenue, but not less than value of land, improvements and personal property. Age-based uniform fee for autos, motorhomes, ATVs, motorcycles, non-commercial trailers, personal watercraft, boats shorter than 31 feet; 1.5% light weight trucks, value based not age based commercial trailers, boats longer than 31 feet.	
Rate	Set annually by the boards of various taxing entities. •Effective tax rate excludes fee in lieu (property taxes on motor vehicles) •Highest overall rate (TY2017): 0.009168 •Lowest overall rate (TY2017): 0.006399 in TY2016, school districts received 55% of total property tax revenues, counties 18%, cities and towns 14% and special districts 13%.	
Enacted	1849	
Disposition	School districts, cities, towns, counties and special districts.	
Procedure	Tax Commission assesses transportation, telecommunication, utilities, railroads, mines and gas/oil production. County assessors assess all other property as of noon January 1, annually. Veterans with a disability, blind, indigent, and circuit breaker applicants have September 1 filing. By June 22, local tax entities set tax rates. By July 22, valuation notices sent to taxpayers (except centrally assessed which are mailed by May 1st). Centrally assessed taxpayers must appeal 90 days from assessment. Taxpayers who have locally assessed property have until 45 days after valuation notices are mailed to appeal assessments. Sixty days thereafter, Board of Equalization issues decision. By November 1, tax notices mailed. By November 30, taxes due.	
Exemptions	Property of government, or non-profit entities used exclusively for religious, charitable or education purposes. Freeport goods, livestock, machinery and equipment used for agricultural purposes. Veterans with a disability or their widows based on the percentage of disability up to \$255,301 taxable value. Credit for homeowners or renters "circuit breaker" is based on income. "Indigent Abatement" for poor is 50% of the tax due, to a maximum of \$951, for the blind \$11,500 of taxable value of real and tangible personal property is exempt. Other types of exemptions such as personal property exemption, property to furnish power for irrigation purposes, intangible property and inventories, and for US armed forces active duty members.	
Agency	Utah State Tax Commission	
Yield	2006 \$2,058,326,860 2007 \$2,237,691,058 2008 \$2,425,078,378 2009 \$2,551,151,126 2010 \$2,502,414,690 2011 \$2,584,024,228 2012 \$2,677,532,900 2013 \$2,768,460,738 2014 \$2,782,364,300 2015 \$2,938,703,842 2016 \$3,258,864,244	
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and the Department of Workforce Services for their cooperation in providing information contained in this reference.

The Fast Tax reference booklet is available on the Association's website, www.utahtaxpayers.org, or for a hard copy, email taxwatch@utahtaxpayers.org.

Association Accomplishments During May:

- ❖ Attended the Legislative Revenue and Tax Interim Committee Meeting
- ❖ Held The 40th Annual Taxes Now Conference at the Grand America Hotel
- ❖ Planned the 2018 Teed off on Taxes Golf Tournament
- ❖ Met with members of Murray City regarding a proposed tax increase
- ❖ Awarded the 2018 "Friend of the Taxpayer" Awards to state House and Senate members

In the News

- ❖ City Employee Compensation Report
 - [Find Out How Much Top Employees made Last Year in Utah's 50 Largest Cities-](#) Salt Lake Tribune
 - [29 of Utah's Largest Cities have Employees Paid More Than the Governor-](#) Utah Policy
- ❖ 40th Annual Taxes Now Conference
 - [Tax Chief: Lawmakers Should Deal with Tax Breaks for People with Dependents-](#) Salt Lake Tribune
 - [Tax Increases are Probably Off the Table for the Next Few Years-](#) Utah Policy