



THE UTAH TAXPAYER

A PUBLICATION OF THE UTAH TAXPAYERS ASSOCIATION

Sales Taxes on Services – Killing the Goose that Lays the Golden Egg

The much anticipated sales tax expansion bill was unveiled as House Bill 441 by Representative Tim Quinn during the last weeks of the legislative session. It is a bold step in a direction that no other state has taken of this magnitude.

A few other states tax services to some extent, however, none of them have gone quite as far as HB 441 does in making virtually all services taxable unless expressly excluded.

Some general outlines of what the bill does are:

Broadens the sales tax base:

- Utah joins South Dakota, West Virginia, Hawaii (Gross Receipts Tax) and New Mexico (Gross Receipts Tax) by making services presumptively taxable unless expressly removed.
- Key services removed are medical (other than cosmetic surgery), real estate and insurance commissions, management consulting fees, professional employer organizations, computer training, securities dealers, and investment bankers.
- Removes 15 exemptions, but keeps in all business input exemptions besides those for ski resorts. Removes the vehicle trade-in exemption.

Lowers rates:

- Effective January 1, 2019, gives personal exemption income tax relief to families making less than \$70,000, by increasing the state tax exemption per dependent.
- Effective January 1, 2020, drops the state sales tax rate from 4.85% to 4.02%, and the corporate and personal income tax rate from 4.95% to 4.75%.
- Effective October 1, 2020, drops the sales tax rate further from 4.02% to 3.22% unless revenues are not as great as expected.

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My Corner



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Tax Reform: First, Do No Harm

The biggest tax issue before the 2019 General Session of the Utah Legislature is HB 441, Tax Equalization and Reduction Act. The measure would enact a significant expansion of the sales tax base, mostly by taxing services which are not currently taxed.

It would also provide significant reductions in the state sales and income tax rates to offset the increased revenue from the sales tax base

expansion. You can read more about the details on the bill, available at the present time on the front page of this newsletter.

While your Taxpayers Association has long supported broadening the base and lowering both the income and sales tax rate, we have also worked diligently for nearly three decades to eliminate taxes on business inputs, by removing sales taxes on manufacturing, mining and data centers.

HB 441: Good Tax Reforms Mixed with Fatal Flaws

Some of the new business taxes in the original HB 441 would eclipse some of the most important recent tax cuts on business inputs by enacting new business-to-business taxes on services. If kept in the bill, these new taxes on businesses could do serious long-term damage to Utah's economy and especially its coveted job-creation capacity.

Through the years, the Utah Legislature has slowly, methodically, and carefully created the best economy in the nation. Patience has been our essential characteristic as we have fought for incremental victories year after year. The slowness of achieving these victories was due in large part to the somewhat unique Utah requirement among the 50 states that in order to cut taxes, the sponsor is required to find funding to make revenue projections whole. In other words, government spending growth is a higher priority than cutting taxes.

If you think about it, this is an absurd requirement: that in order to cut taxes, the revenue must be replaced! Although Utah is deemed a fiscally conservative state, legislative practice says that government deserves every dollar

revenue projections predict it will receive, and if proposed tax cuts are to pass, the sponsor must find replacement revenues.

ALEC: Don't Tax B2B

Jonathan Williams met with your Taxpayers Association staff and Utah legislative leaders last week. Mr. Williams is co-author with Dr. Art Laffer of the American Exchange Council's *Rich States, Poor States* annual economic analysis of the 50 states. In all eleven years it has been published, Utah has ranked first in the nation for best economic outlook. Mr. Williams commented on HB 441 saying that the sales and income tax rate reductions in the bill are good elements and essential to continued economic competitiveness among the states. However, he warned against expanding the sales tax base through new business-to-business taxes which pyramid or stack taxes on taxes rather than taxing the final purchase.

Inadequate Public Input

While we hope the flaws in HB 441 can be fixed and sales and income tax rates are reduced, It is illustrative to contrast the process in developing this tax reform measure with the income tax reforms of a decade ago.

Between 2005 and 2007 the legislature took extraordinary lengths to openly debate expanding the income tax base and lowering the rate. There were many public hearings to ensure citizens knew their voice was encouraged. The legislature engaged economists and extensive research to see exactly how the proposed income tax change would affect literally every Utah taxpayer. Then, based on the analytics and public feedback changes were made in the proposal.

On the other hand, this year's sales tax reform package was not developed through a public committee meeting process. Instead, the sponsor worked privately for ten months with drafters and selected legislative leaders. The bill was unveiled to the public and the legislature with just eleven days left in the session. The first public hearing was nine days before the session ended. Many were surprised to learn they would be required to collect sales taxes for the first time. Consequently, there were many who testified in the hearing against the bill, saying their

business shouldn't be saddled with a new state sales tax.

At the conclusion of the House Revenue & Taxation Committee hearing, the bill's sponsor Representative Tim Quinn, lashed out at the businesses opposing the measure, saying that their criticism of the process was nothing more than a tactic to kill the bill. Even though the 257 page bill was just unveiled, he said he had been getting the crap kicked out of him for six months. He singled out the profits made by businesses opposing the

measure, and specifically suggested that due to their profits, hospitals, oil companies, advertisers, and media outlets should have no problem paying the new tax.

While we completely understand the tensions between businesses and the sponsor, we are hopeful that the bill can be perfected to remove taxes on taxes generated by sales taxes on business inputs, and bring Utah sales taxes into the 21st Century.

Sales Tax on Services – Killing the Goose (continued)

Other Provisions:

- Provides increase amounts of the dependent deduction to mitigate the higher tax increase on larger families filing jointly with \$70,000 or less in income, following the impact of federal tax legislation
- Creates an earned income tax credit for those who are proven to be in intergenerational poverty, as defined by the Department of Workforce Services.
- Provides a tax credit for those receiving social security benefits
- Implements a Real Estate Transfer Tax of 7.5 cents per \$100 of value (.075%)
- This equates to \$150 on a \$200,000 home
- Implements a Health Insurance Premium Tax of 1%

Your Taxpayers Association has long supported the idea of "broad base and low rate", and HB 441 does accomplish this to a significant degree. However, there are several areas of concern that your Utah Taxpayers Association has with the bill. While the Salt Lake Chamber of Commerce gave its support behind the bill within hours of its public release, we have been working diligently to correct the significant harm the bill could do to businesses all across the spectrum in Utah.

First, the bill as it is currently written would introduce layer after layer of "tax pyramiding", which would have disastrous economic consequences for Utah. "Tax Pyramiding" is essentially a tax on a tax on a tax, that layers costs onto services and products that are passed on to end consumers. In addition, as companies look at remaining in Utah or relocating to

2020	
Sales Tax Increase on individuals and businesses	\$ 230,083,000
Local Sales Tax Increase on individuals and businesses	\$ 66,484,000
Total Increase	\$ 296,567,000
Income Tax reduction on individuals	\$ 92,248,000
Income Tax reduction on corporations	\$ 7,484,000
Total Decrease	\$ 99,732,000
Net Increase/Decrease	\$ 196,835,000

2021	
Sales Tax Increase on individuals and businesses	\$ 323,325,000
Local Sales Tax Increase on individuals and businesses	\$ 184,426,000
Total Increase	\$ 507,751,000
Income Tax reduction on individuals	\$ 300,310,000
Income Tax reduction on corporations	\$ 23,726,000
Total Decrease	\$ 324,036,000
Net Increase/Decrease	\$ 183,715,000

2022	
Sales Tax Increase on individuals and businesses	\$ 231,169,000
Local Sales Tax Increase on individuals and businesses	\$ 257,093,000
Total Increase	\$ 488,262,000
Income Tax reduction on individuals	\$ 316,371,000
Income Tax reduction on corporations	\$ 24,921,000
Total Decrease	\$ 341,292,000
Net Increase/Decrease	\$ 146,970,000

Calculations from the Utah Taxpayers Association based on the fiscal note from HB 441 show a net tax increase.

Utah, they will see an additional cost of doing business in Utah of 4% to 6% and decide to pack their bags and move elsewhere. That will lead to job losses, reduced economic growth, and our eventual place at the bottom of the heap when it comes to business climate in comparison to other states. We will be upending decades of work in making Utah the great climate that it is. We are working actively to amend the bill to mitigate this disastrous aspect of the bill.

Another significant concern deals with the fiscal note on the bill. This bill has been advertised as a tax cut and the fiscal note shows that it is absolutely not a tax

cut at this point. Your Taxpayers Association analysis reveals that as it is currently written, the bill is a significant tax increase and is not “revenue neutral” as has been advertised. Not only is there a tax increase in state taxes, there is a tax increase in local option sales taxes as well. Our current analysis of the fiscal note shows a tax increase of \$196 million in fiscal year 2020, \$183 million in fiscal year 2021, and \$146 million in fiscal year 2022.

Whether the tax hike comes in the form of state taxes or local taxes, it is a tax hike.

Another issue that will face taxpayers in the near future if HB 441 passes is the issue of compliance and hassle. Tens of thousands of even the smallest of business owners will need to learn how to file, collect and remit sales taxes. This burden of time and education will fall squarely on their shoulders with no compensation from the state as far as lost time, possible innocent mistakes, and increased costs of ongoing compliance.

2019 Legislative Watchlist: What, How, and Where to Follow Tax-Related Bills

Each year, your Taxpayers Association reviews hundreds of bills that are proposed during the legislative session. So far this year, we are acting to some extent on nearly 60 bills. This information is available in our weekly watchlist, which can be [accessed here](#).

Here are a few of a major pieces of legislation we’re tracking this year.

HB 441 - Tax Equalization and Reduction Act (Quinn) – Oppose

The biggest tax issue before the 2019 General Session of the Utah Legislature is SB 441, Tax Equalization and Reduction Act. The measure would enact a significant expansion of the sales tax base, mostly by taxing services which are not currently taxed. It would also provide significant rate reductions in the state sales and income tax rates to offset the increased revenue from the sales tax base expansion.

We have concerns over these services that are necessary in conducting business, and that the bill does not appear to be revenue neutral.

Your Taxpayers Association is working on language to address both of these issues, in order to protect taxpayers and Utah’s economic future.

You can read more about this bill at the very beginning of this newsletter, as well as in this month’s My Corner.

Tangible Personal Property - SB 42 (McCay), SJR 3 (McCay), HB 231 (Lisonbee) – Support

These three bills all deal with the tangible personal property tax.

Senate Bill 42 seeks to eliminate the double taxation of tangible personal property. In essence, if a purchaser buys an item of tangible personal property, and if that purchasing business is subject to the sales tax, then that business should not need to pay the personal property tax. This applies in the reverse.

SJR 3 is the resolution that is required when SB 42 passes. Since property tax exemptions are found in the Constitution, a constitutional amendment is required to fully enact the changes made in SB 42.

Finally, HB 231 increases the automatic exemption amount for tangible personal property from \$10,000 to \$12,750, and perhaps even higher.

SB 201 - Oil and Gas Tax Incentive Amendments (Winterton) - Support

Following the victories in 2018 that eliminated the three-year life sales tax penalty on business inputs for manufacturers and mining operations, the march to eliminate tax pyramiding in Utah continues. Our next challenge is eliminating the business inputs for oil and gas extraction industries. This is a principle the Legislature has clearly believed in and has taken steps to fix it. In addition to this, Utah’s oil and gas industries have a particular set of challenges that leave it vulnerable to

tough competition from other states. In essence, because of Utah's topography, the oil and gas extractors have difficulty transporting their product to the refineries as well as extracting it from the ground.

SB 201 is a great step in continuing our progress in eliminating business inputs for major industries in the state.

Your Taxpayers Association is supportive of this bill, and it is currently in possession of the Senate Revenue and Taxation Committee.

SB 154 - Utah Communication Authority Amendments (Harper) - Oppose

Utahns can expect fees on their phones (both cell phones and landlines) to increase due to SB 154, Utah Communications Authority Amendments. The bill seeks to increase 911 fees from 9 cents to 25 cents.

While the Utah Taxpayers Association supports ensuring that public safety facilities, including 911 emergency centers, are funded adequately, phone users (whether it be a landline or a cell phone) are not the only users of 911 services.

Public safety is used by all citizens, and therefore should be funded through general property taxes, through the general fund rather than applying even higher fees on cell phone and landline users. We remain opposed to SB 154 until these funding issues are resolved.

SB 256 - Truth in Taxation Requirement Revisions (Anderegg) - Oppose

The Utah Taxpayers Association is avidly opposed to this legislation. SB 256 seeks to completely undermine Utah's Truth in Taxation process by eliminating the requirement that local governments go through a Truth in Taxation process when seeking to raise property taxes.

If the bill were to pass, if a entity's elected officials can automatically increase the certified tax rate for inflation without public accountability required through a Truth in Taxation hearing.

This lack of transparency when requiring taxpayers to pay more should be of utmost concern to every taxpayer in the state. We will fight this bill tooth and nail to protect the property tax system that Utah has in place that has kept property taxes in check while maintaining the funding for local governments.

SB 179 - Truth in Taxation Amendments (Fillmore) - Support

While this bill started out preventing local entities from limiting the amount of people who can speak at a Truth in Taxation process, local government officials have come out against the bill arguing that the Truth in Taxation process is too burdensome for them, and have for years tried to limit their participation in it.

Following the whining of locally elected officials, the Senate amended the bill to say that during the Truth in Taxation hearing, officials can limit comment "without unreasonable restriction", whatever that is supposed to mean.

Your Taxpayers Association is still supportive of this bill, since it codifies that elected officials cannot, unreasonably restrict public comment. But expect us to keep fighting to protect Truth in Taxation.

Retirement Bills - HB 269 (Perry), SB 129 (Harper), SB 167 (Mayne) - Oppose

There have been several attempts to change the Utah Retirement System retirement plans for police and firefighters this session. The first version was HB 269 (Perry) that would effectively bring back double dipping for police and firefighters. Even though fiscal notes only examine the first three years after legislation passes, the costs to the state and local taxpayers would be enormous and would balloon to disastrous size in the decades that follow. Thankfully, that bill has been held in the rules committee and has not moved forward up to this point.

Next, Senator Mayne had a bill - SB 167, that would implement a "planned retirement program", where police of firefighters could accrue retirement benefits while still working before retirement. These types of plans can be abused and become a form of double dipping.

Thankfully, this bill was held in the Senate Retirement Committee.

Finally, there is a bill by Senator Harper - SB 129, that will make two changes to the Tier 2 retirement plan for police and firefighters. It will increase the contribution rate from 12% to 16%, with 2% coming from the employee salary deferral and 2% coming from the local employer. In addition, it will increase the yearly accrual they get for the pension plan from 1.5% each year to 2%.

To view the full Watchlist, [please click here](#).

Utah's 15% Cell Phone Tax to Increase?

Wireless service is a major primary source of communication for many Americans. Due to intense price competition between cell phone providers, the average monthly per-line cost of wireless service decreased for the second year in a row from \$41.50 to \$38.66 nationally.

The bad news is consumers in many parts of the country were not able to enjoy the price reduction because taxes, fees, and surcharges continued their upward trend.

This is according to the latest findings by the Tax Foundation, a Washington-DC based think tank. According to their study, these taxes, fees and surcharges make up 19.1% of the average customer's bill-the highest percentage ever. Illinois is the state leading the way with 27.6% of their cell phone bill going to taxes and fees.

Utah, at 14.7%, just edges out of the top ten nationally, coming in at number 11 on the list of highest taxed states for cell phone users. In comparison, just to the North, Idaho is number 49 with a mere 2.59% of their cell phone bill going to taxes and fees. Also at the bottom of the list are Montana (6.6%), Nevada (3.27%), and Oregon (2.10%).

SB 154: Unnecessary Tax Hike on Phones

But the news gets even worse for Utah consumers. Thanks to legislation proposed during the 2019 General Session, Utahns can expect fees to increase even higher. SB 154, Utah Communications Authority Amendments, seeks to increase 911 fees from the current rate of 9 cents to 25 cents per month.

While the Utah Taxpayers Association supports ensuring that public safety facilities, including 911 emergency centers, are funded adequately, phone users (whether it be a landline or a cell phone) are not the only users of 911 services.

Public safety is used by all citizens, and therefore should be funded through general property taxes through the general fund rather than applying even higher fees on cell phone and landline users. We remain opposed to SB 154 until these funding issues are resolved.

Let's take a quick look at the various taxes and fees that the state and other local governments may impose

on your cell phone bill. While the taxes and fees on your bill may differ, that is due to different entities imposing different rates or fees.

- The Universal Service Fund (USF) fee - this levy is applied by the Federal Communications Commission (FCC) to help fund projects that make cell phone coverage and high-speed internet available across the entire country. This includes very remote areas where few, if any people reside.
- City Gross Receipts Tax is similar to the sales tax you pay. However, this is levied upon businesses that provide a good or service. This is a perfect example of a tax on a business being passed along to the consumer.
- State and local sales tax are the traditional rate we all pay for goods and services.
- The State Universal Fund fee is nearly the same purpose as the USF issued by the FCC, except created to bolster statewide cell phone and broadband coverage.
- DEAF Surcharge - the revenue from this fee goes to pay for services for those who need additional services due to hearing issues. For example, Relay Utah.
- Poison Control Surcharge - pays for the poison control dispatch center.
- 911 Taxes - This can be levied by both the city and statewide. These go to partially fund the dispatch centers for emergencies.

With many state and local governments say they are struggling to maintain funding, the growing wireless industry and its customers are attractive targets for raising new revenue. This is ill-advised and should not be looked at as an easy fix for funding problems.

Utah state and local government leaders should study our existing communication tax burden and consider policies that transition away from raising wireless taxes and fees further and instead pay for essential services through general fund sources.

Association Accomplishments During February:

- ❖ Met with legislators and tax policy makers during the 2019 General Session regarding tax policy changes in Utah
- ❖ Attended committee meetings at the 2019 General Session to state the Association's position on legislation that will affect taxpayers in Utah
- ❖

In the News

- ❖ Costly Pension Proposal for First Responders Raises Concerns
 - [Better Pensions for Firefighters, Police Officers Raise Cost Concerns](#) KUTV
- ❖ Sales Tax Reform
 - [Lawmakers Still Hashing Out Tax Reform Details](#) Utah Policy

