

## **2013 Property Tax-Related Legislation**

April 8, 2013

### **HB 54 Property Tax & Appraiser Amendments**

Effective May 14, 2013

A county BOE may appoint an appraiser licensed under Title 61 as a hearing officer or appoint an individual who is not licensed in accordance with Title 61 as a hearing officer if that individual has competency in real estate, finance, economics, public administration or law. USTC is to develop a hearing officer training course to include training in property valuation and administrative law. In addition to this course, USTC may approve a hearing officer training course provided by a county or a private entity if it includes the above-mentioned training. Beginning January 1, 2014, all county BOE hearing officers are required to attend this training class. It prohibits the BOE from appointing an employee of the assessor's office as a hearing officer. Under certain circumstances, it allows a person to present evidence or provide property tax information on behalf of another person in a property tax appeal. It provides that in reviewing evidence, a county BOE and the commission are to consider and weigh: (1) the accuracy, reliability and comparability of the evidence presented by the owner or county, (2) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date, (3) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time and the manner in which the property was offered for sale, and (4) if submitted, other evidence that is relevant to determining the FMV of the property. After the time allowed for a county BOE to make a decision on an appeal and unless the commission approves an extension of time, all remaining appeals are to be heard by the legislative body (not the BOE) at the next regularly scheduled meeting. It allows post-lien date evidence to be submitted for consideration both to the county and USTC. Only licensed appraisers may present an opinion of value and must follow certain Real Estate Division statutes when presenting evidence or providing property tax information. Only a non appraiser may present or provide a price estimate. Also, contingent fees are addressed for both a licensed appraiser and a person providing a price estimate.

### **HB 67 Property Taxation Revisions**

Effective January 1, 2014

The 45% primary residential exemption is applied to household furnishings, furniture and equipment owned by the owner of a dwelling unit that is used exclusively as the primary residence of a tenant. It is the landlord's (not the tenant's) property that is exempt. It allows USTC, by administrative rule, to define "dwelling unit". Also, it increases the personal property exemption from \$4,000 (2013) to \$10,000 in 2014. Personal property collections for 2014 will be slightly reduced since the 2014 tax rate calculation is based on 2013 taxable values. Personal property taxable value accounts for an average of 5.5% of total statewide taxable property value. In 2015 the reduction of personal property taxable value, as a result of the increased exemption amount, will be part of the tax rate calculation. This is the tax year that a slight increase in the tax rate may occur to account for the increase in the personal property exemption amount as well as the 45% primary residential exemption applied to household furnishings, furniture and equipment used exclusively within rental primary residential property. The first calendar year a taxpayer qualifies for the exemption (including the qualifying exempt primary residential rental

personal property), the county assessor may require the taxpayer to file a signed statement as described in Section 59-2-306. After the first year, the signed statement may only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for the exemption.

**HB 74 Property Tax Modifications**

Effective: Retrospective to January 1, 2013

Legislation defines “split estate mineral rights owner” to mean a person who (a) has a legal right to extract a mineral from property, (b) does not hold more than a 25% interest in the property’s land surface rights where the wellhead is located, or an entity with an ownership interest in the property’s land surface rights where the well head is located, (c) is not an entity in which the owner of the land surface rights of the property where the well head is located holds more than a 25% interest and (d) does not have a relationship with an owner of the property where the well head is located. “Relationship with an owner of the property’s land surface rights” is also defined. Mineral extraction by a split estate mineral rights owner does not trigger the rollback tax on the associated land that has become ineligible for FAA assessment. Also, it provides that land, becoming ineligible for FAA assessment only as a result of a split estate mineral rights owner exercising the right to extract a mineral, qualifies for FAA assessment the first year the land resumes being actively devoted to agricultural use.

**HB 86 Property Tax Rate Certification Date**

Effective: Retrospective to January 1, 2013

The governing body of each taxing entity is required to adopt a proposed or final tax rate by June 22<sup>nd</sup>. This legislation allows a time extension for a taxing entity which does not receive its certified tax rate from the county auditor at least seven days prior to June 22<sup>nd</sup>; the extension is 14 days after receiving the certified tax rate to adopt a proposed or final tax rate.

**HB 112 Assessment of Property if Threatened or Endangered Species is Present**

Effective January 1, 2014

Requires the county assessor to consider in the determination of fair market value of property whether a threatened or endangered species is present.

**HB 395 Veterans’ Affairs Amendments**

Effective July 1, 2013

This legislation (1) changes the name of the Department of Veterans’ Affairs to the Department of Veterans’ and Military Affairs, (2) modifies the process for selecting the executive director as well as adding additional duties for the executive director and (3) increases the number of members of the Veterans’ Advisory Council.

**SB 34 Special Election Date for Ballot Propositions**

Effective July 1, 2013

This legislation specifies that the legislative body of a local political subdivision may only call a special election for a ballot proposition related to a bond, debt, leeway, levy, or tax on the first Tuesday after the first Monday in November (date of a general election).

**SB 35 Property Taxation of Business Personal Property**

Effective January 1, 2014

The taxable tangible personal property exemption amount is increased from \$4,000 (2013) to \$10,000 (aggregate FMV per county) for 2014. The first calendar year a taxpayer qualifies for the exemption, the county assessor may require the taxpayer to file a signed statement as described in Section 59-2-306. However, after the first year, the taxpayer is only required to certify, under penalty of perjury, that he qualifies for the exemption.

**SB 77 Availability of Government Information**

Effective May 14, 2013

This legislation modifies provisions relating to the availability of government information. It defines “approved minutes” and “pending minutes” and identifies pending and approved minutes as well as recordings of a public meeting to be public records under GRAMA. It defines “specified local public body” as a legislative body of a county, city or town and “state public body” as an administrative, advisory, executive or legislative body of the state. A specified local public body is to (a) make pending minutes available to the public within 30 days, (b) within 3 business days, approved minutes are to be posted to the Utah Public Notice Website (UPNW) and made available at the public body’s primary office, (c) within 3 business days, make an audio recording available to the public. A public body of a city of the 5<sup>th</sup> class or town has until January 1, 2015 to comply with the requirement of within 3 business days posting approved minutes to the UPNW and making them available at their primary office within three days. A “state public body” is to (a) make pending minutes available to the public within 30 days, (b) within 3 business days, approved minutes are to be posted to the UPNW and made available at the public body’s primary office, (c) within 3 business days, post on the UPNW an audio recording of the open meeting. A public body that is not either a specified local public body or a state public body is to make pending minutes available to the public within a reasonable time and within 3 business days after approving written minutes, make them available to the public. Also, within 3 business days, make an audio recording available to the public.

**SB 211 Redevelopment Agency Amendments**

Effective May 14, 2013

Certain urban renewal and economic development project budgets are required to specify the maximum cumulative dollar amount of tax increment that the agency may receive; however, it also authorizes a taxing entity committee to approve exceptions to this requirement. If increased taxes are paid to an agency, prior to the 2013 tax year without the approval of the taxing entity committee, neither USTC , the county, a taxing entity or anyone else may recover the increased taxes from the agency by adjustment of a tax rate used to calculate tax increment or otherwise. The county is not liable to a taxing entity or anyone else for the increased taxes paid to the agency. The tax increment, including the increased taxes are to be paid to the agency subject to the same conditions/requirements as approved in the project area budget and previously paid to the agency.

**SB 238 Property Tax Amendments**

Effective January 1, 2014

This legislation adds a provision authorizing a county legislative body to reduce the value of property or issue a refund of property taxes paid on a property for which an appeal has not been filed if: (1) the county BOE, the commission, or a court reduces the property value, (2) the next year’s assessed value is at least five times greater than the established value at the time of the valuation reduction and (3) the assessed value is determined to exceed fair market value. This reduction in value occurs even though the taxpayer has not filed an appeal within the time period required in Sections 59-2-1004 and 1006.

The legislation modifies the property tax exemption for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes. The definition of “nonprofit entity “ was expanded to include: (1) an entity that is treated as a disregarded entity for federal income tax purposes; (2) an entity which is wholly owned by, and controlled under the direction

of, a nonprofit entity; (3) and the earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity.

Also, one part of the definition of “noncapitalized personal property” was changed to requiring the recognition of the deduction even if the deduction was not claimed under the IRS Code Sections 167 and 179. Currently, noncapitalized personal property having an acquisition cost of \$1,000 or less must be claimed as a deductible expense on a federal tax return

**SB 269 Property Tax Revisions**

Effective May 14, 2013

This legislation clarifies language in Section 59-2-914 allowing taxing entities to adopt a tax rate in excess of the maximum levy permitted by law if the tax rate is at or below the entity’s certified tax rate as established in Section 59-2-924.