

# 2014 Property Tax-Related Legislation

## April, 2014

### **HB 93 Property Tax Assessment Amendments**

Effective January 1, 2015

A new term is defined in county assessment statutes called “diminished productive value” which means that property has no, or significantly reduced ability to generate income because of: (1) a parcel size requirement established by ordinance or zoning; or (2) one or more easements burdening the property. In assessing fair market value, a county assessor is to consider whether property has “diminished productive value”.

### **HB 123 Property Tax Lien Amendments**

Effective May 13, 2014

This legislation prohibits the county from reassigning a lien created under Title 59-2, Part 13, Collection of Taxes on Real Property.

### **HB 273 Property Tax Residential Exemption Amendments**

Effective January 1, 2015

This legislation makes revisions to the property tax residential exemption. First, it defines “part-year residential property” to mean “property that is not residential on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.” Part-year residential property is allowed the residential exemption if it is used as residential property for 183 or more consecutive calendar days during the calendar year. However, before a part-year residential property exemption may be applied, the owner must: (1) file an application (on a form USTC prescribes by rule), with the county BOE and include in the application a statement that certifies the date the part-year residential property became residential and that the residential property will be used as residential property for 183 or more consecutive calendar days during the calendar year; (2) the application must be filed on or before November 30<sup>th</sup> of the year for which the exemption is claimed; (3) if the application is filed on or after May 1, the county BOE may require the owner to pay an application fee of no more than \$50.

For residential property other than part-year residential property, a county legislative body may adopt an ordinance requiring an owner to file an application with the county BOE before a residential exemption may be applied to residential property if: (1) the property was ineligible for the residential exemption during the immediate preceding calendar year; (2) ownership changes; or (3) the BOE determines there is reason to believe the property no longer qualifies for the residential exemption. The application is to be on a form USTC prescribes by rule and be certified and signed by all owners of the residential property.

### **HB 332 Real Estate Amendments**

Effective May 13, 2014

A new term “credential” is defined to mean “a state-issued registration, license, or certification that allows an individual to perform any act or service that requires licensure or certification.” This legislation provides the education and experience requirements for a licensee under the Real Estate Appraiser Licensing and Certification Act. The licensee must meet or exceed the requirements established by the Appraisal Qualification Board; however, the Board may delegate to the Division of Real Estate authority to review applications and determine if applicants meet the proper requirements. Procedures are established to request the review of decisions relating to licensure, certification and registration. All applicants are to submit and consent to pay the costs

for fingerprint cards and criminal background checks. Any license, certification or registration is immediately revoked if the applicant fails to disclose any criminal history relating to the appraisal industry or felony conviction of fraud, misrepresentation or deceit; appeal procedures are outlined. If an individual's conditional license, certification or registration is revoked and not appealed, the individual must wait 12 months to apply again. Any applicant who is credentialed under the laws of another state may obtain a reciprocal credential in Utah if certain conditions are met. For state-licensed, state-certified residential and state-certified general appraisers, the Division, with the concurrence of the Board, is to make rules establishing various educational and experience requirements. State-certified appraisers who satisfy all requirements may supervise trainees as allowed by rule. The Division may accept a voluntary surrender of a license, but this does not prevent the Division from pursuing disciplinary action related to the surrendered license; any documentation regarding surrender of a license is public record. Finally, a timeframe is specified wherein the Division is to commence disciplinary action under the Real Estate Appraiser Licensing and Certification Act.

### **HB 356 New Convention Facility Development Incentive Provisions**

For PT, Effective May 13, 2014

This legislation enacts provisions relating to incentives for the development of a new convention facility. For property tax purposes, it authorizes a community development and renewal agency (CDRA) to receive incremental property tax revenue generated from hotel property during the eligibility period. It defines "incremental property tax revenue" to mean "the amount of property tax revenue generated from hotel property that equals the difference between the amount of property tax revenue generated in any tax year by all taxing entities from hotel property, using the current assessed value of the hotel property and the amount of revenue that would be generated that tax year by all entities from hotel property, using a base taxable value of the hotel property as established by the county." The "host agency" means "the CDRA of the host local government." The host agency is paid incremental property tax revenue during the eligibility period and may use the revenue for the purchase of or other types of payments for: (1) tangible personal property used in construction or that becomes affixed to hotel property as real property, or labor /overhead costs associated with construction; (2) public infrastructure; and (3) other purposes as approved by the host agency. The host county collecting property tax revenues is to distribute to the host agency the incremental property tax revenue received according to Section 59-2-1365 (on or before the 10<sup>th</sup> day of each month all money received during the previous month that is due the host agency).

### **HB 379 Transparency of Ballot Propositions**

Effective May 13, 2014

This legislation enacts a new Part 16 under Title 59, Chapter 1 entitled: "*Transparency of Ballot Propositions Act*". A "ballot proposition" does not include an initiative or referendum authorized under Title 20A, Chapter 7, Issues Submitted to the Voters". "Tax increase", for property tax purposes means: "the imposition of a property tax rate or increase in a property tax rate if the imposition or increase is required to be submitted to voters, for their approval or rejection. . ." It provides requirements and procedures for submitting, posting arguments in favor of and in opposition to and conducting public meetings for the ballot propositions. Each argument is allowed the chance for rebuttal and all arguments and rebuttals directed to a ballot proposition are to be posted on the Statewide Electronic Voter Information Website and, if a taxing entity has a public website, on the taxing entity's public website for 30 consecutive days

before the election. Also, it requires a governing body of a taxing entity to provide a digital audio recording of the public meeting wherein these ballot propositions are discussed.

**SJR 7 Joint Resolution Regarding Qualifications of State Tax Commission Members**

Effective 01/01/15, if approved by a majority of those voting at the next regular general election. This resolution eliminates a provision limiting membership on the State Tax Commission to no more than two members from the same political party; and provides that the qualifications of State Tax Commission members are as provided by statute.

**SB 19 Appointment and Qualification of Members of the State Tax Commission**

Effective May 13, 2014

The legislation repeals a provision from statute contained in the Utah Constitution requiring that no more than two members of the Tax Commission may be from the same political party. It amends provisions related to the appointment and qualifications of State Tax Commission members.

**SB 47 Emergency Management Act Amendments**

For PT Effective May 13, 2014

For property tax purposes, “any property brought into the state temporarily for disaster-related work during a disaster period is not subject to any state or local ad valorem taxes under Title 59, Chapter 2, Property Tax Act”.

**SB 51 Local Government Entities Amendments**

Effective May 13, 2014

This legislation amends various provisions related to local districts and special service districts as well as provisions related to the state auditor’s authority to withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit. There are two provisions of note for property tax: (1) “Property within a withdrawn area is to continue after withdrawal to be taxable by the local district for the purpose of paying the withdrawn area’s just proportion of the local district’s general obligation bonds or lease obligations payable from property taxes with respect to lease revenue bonds issued by a local building authority on behalf of the local district . . . until the bonded indebtedness has been satisfied.” (Section 17B-1-511) (2) Amends provisions related to the state auditor’s authority to withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit. (Section 67-3-1).

**SB 61 Revisions to Property Tax**

Effective dates: May 14, 2014; January 1, 2015

The basic purpose of this bill is to simplify the TNT process for calendar-year entities. It modifies the procedures and requirements for a calendar-year entity imposing a property tax levy that exceeds the certified tax rate, the content of the tax notice and amends the timing for a public hearing held for imposing a judgment levy.

It allows a calendar-year entity to levy a tax rate exceeding the certified rate if the following conditions are met: (1) at least 14 days before the regular or municipal general election is held, the calendar-year entity states at a public meeting the following: (a) that it intends to exceed the certified tax rate, (b) the dollar amount of and purpose for needing additional revenue, (c) the approximate percentage increase. (2) It must provide notice for the public meeting in accordance with Title 52, Chapter 4, Open and Public Meetings Act to include providing in a separate item

on the meeting agenda that the entity intends to exceed the certified rate. (3) It must meet advertising requirements (two weeks) before the public hearing is conducted. (4) It must provide a notice (on a separate form developed by the Commission) by mail at least 7 days before the regular or municipal general election is held. Stated at the top of the form (notice), in bold upper-case type are the words: “NOTICE OF PROPOSED TAX INCREASE”. This form can be mailed with the tax notice. (5) It must conduct a public hearing (6) It must notify the county legislative body on or before October 1 of the date, time and place of the first public hearing at which the calendar-year taxing entity’s annual budget will be discussed. If a taxing entity doesn’t make a final decision on budgeting additional revenue at the public hearing, then they must announce the time and place of the next public meeting where the additional tax revenue will be considered. These procedures are somewhat modified for a county executive calendar year taxing entity. For fiscal-year entities, a public hearing on levying a tax rate exceeding the certified tax rate may coincide with a public hearing on the fiscal-year taxing entity’s proposed annual budget. In addition, the bill addresses the content of the “Notice of Property Valuation and Tax Changes”.

For calendar-year entities, the legislation amends the timing for a public hearing held for the purpose of considering the imposition of a judgment levy. For eligible judgments issued on or after March 1 but on or before September 15, the public hearing is to be held at the same time as the hearing wherein the annual budget is adopted. For eligible judgments issued on or after Sept 16 but on or before the last day of February, the public hearing is held at the same time as the hearing at which property tax levies are set. The actions affecting hearings on judgment levies, Section 59-2-918.5, take effect on January 1, 2015.

**SB 115 Court Transcript Fees**

Effective July 1, 2014

The legislation increases the fee for a court transcription from \$3.50 to \$4.50 per page; payment is the responsibility of the party requesting the transcript.

**SB 134 Taxation Related Referendum Amendments**

Effective May 13, 2014

This bill outlines the steps for a fiscal-year taxing entity to follow when the legislative body’s vote to impose a property tax rate exceeding the certified tax rate is challenged by a referendum petition. It identifies time lines for the sponsors, county/local clerks and local attorney to follow with regard to the referendum petition. It identifies time lines for absentee ballots, exempts the property tax-related referendum petition from voter information pamphlet requirements and provides language for the ballot. If the voters approve the increase the year the petition is filed, the rate is the certified rate. The following fiscal year, the budgeted, adopted, and approved increased revenue is added into the prior year’s budgeted revenue for the calculation of the certified rate. There are no TNT requirements if those notice and public hearing requirements were complied with before the referendum petition was filed. If the voters oppose the increase the year the referendum petition is filed, the tax rate is the certified tax rate. In order to meet the deadline for printing of the ballots, the election officer is to include the referendum (even before it is qualified) on the ballot. If the referendum does not qualify for the ballot, the election officer is to inform voters that the referendum has not qualified for the ballot and that votes cast either for or against will not be counted. The taxing entity is required to pay costs to the county for this referendum process.

**SB 180 Property Tax Modifications**

Effective: Retrospective to January 1, 2014

This legislation addresses the multicounty assessing and collecting (MAC) and the county assessing and collecting levies. Each county is to annually impose a MAC levy. The tax rate of this levy is as follows: for the calendar year beginning on 1/1/2014, .000013 and after 1/1/15, the certified revenue levy. The levy is to be exempt from notice and public hearing requirements of Sections 59-2-919 and exempt from Sections 17C-1-403 through 406. Each county is to transmit quarterly to the state treasurer the revenue collected from the MAC levy. Revenue collected from the MAC levy is to be allocated as follows: 82% to the Multicounty Appraisal Trust and 18% to the Property Tax Valuation Agency Fund. The funds deposited into the Multicounty Appraisal Trust will continue to provide funding for a statewide CAMA (computer-assisted mass appraisal) system. The "Property Tax Valuation Agency Fund" consists of deposits made and penalties received from the MAC levy, and interest on money deposited into the fund. The state auditor is to annually conduct a study of each 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> class county to determine the costs of assessing and collecting property taxes, the ability to generate revenue from the levy and the tax burden of levying a property tax sufficient to cover the costs of assessing and collecting property taxes. Then, the state auditor is to make rules (giving priority to 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> class counties), providing for the allocation of money in the Property Tax Valuation Agency Fund. A county is allowed to use the money to offset the costs of assessing and collecting property taxes, improving the accuracy of valuation and assessment levels and improving the efficiency of the property tax system. For calendar year 2014, each county's assessing and collecting levy is to be adjusted by the amount necessary to offset any change in the certified tax rate or the amount of revenue received or contributed to the Property Tax Valuation Agency Fund as a result of this legislation; this levy is to be exempt from TNT requirements in Section 59-2-919 for the 2014 calendar year. It is exempt from Sections 17C-1-403 through 406. In addition, it is exempt from the maximum levies under Section 59-2-908.

**SB 231 Agricultural Amendments**

Effective May 13, 2014

For property tax purposes, this legislation adds balers and cubers to the definition of "farm machinery and equipment" in Section 59-2-102. Section 59-2-1101 (3)(a)(vi) exempts "farm equipment and machinery", which now includes balers and cubers, from property taxation.

**SB 237 Urban Farming Amendments**

Effective May 13, 2014

This legislation amends the definition of "urban farming" to include a second class county if the county is at least 98% urban as determined by the US Census Bureau."The highest per acre value used for land assessed under the Farmland Assessment Act" was added to the determination of production requirements for urban farming. The rollback period was reduced from 10 to 5 years for land withdrawn from assessment under the Urban Farm Assessment Act.

**SB 244 Modifications to Property Tax**

Effective May 13, 2014

This legislation allows a county treasurer to provide tax notices by electronic mail, according to procedures determined by the county treasurer and if the taxpayer makes an election to receive the notice by electronic mail. On or before October 1, the taxpayer has the option to revoke his election to receive notice by electronic mail. The county treasurer has the option to send the notice by regular mail, if the taxpayer's electronic mail address is invalid. A person is considered to be a taxpayer regardless of whether the property that is the subject of the notice is

exempt from taxation. Also, the treasurer's electronic notice does not apply to property taxed under Section 59-2-1302 (collection of uniform fees and assessments on personal property) and Section 59-2-1307 (collection of rail car and state-assessed commercial vehicle property).