

2011 Property Tax-Related Legislation

April 11, 2011

HB 46 County Recorder Amendments

Effective May 10, 2011

This legislation clarifies procedures when submitting documents for recording. It clarifies tenancy language on documents of conveyance or when ownership information is sent to the county assessor's office for assessment and taxation. It requires documents conveying title to real property to name the grantees and recite a mailing address to be used for assessment and taxation in addition to the legal description. It creates guidelines for those preparing judgment lien documents or releases of judgments in the recorder's office. Also, it clarifies that granting information (such as the address of each grantee for assessment purposes) is required when a boundary line agreement between private owners is used to establish a common boundary line usually based upon a new survey.

HB 91 Real Estate Related Amendments

Effective May 10, 2011

This Division of Real Estate legislation modifies provisions related to real estate in general and the Division's ability to regulate activities involving real estate. Basically for property tax purposes, it renumbers the appraisal portion of the law from 61-2b to 61-2g. An appraiser who also holds a real estate license may provide a price opinion without following USPAP. The Division of Real Estate is granted concurrent authority with the appraiser board in rule making, licensing and disciplinary proceedings.

HB 98 Capital Outlay Funding Modifications

Effective May 10, 2011

In addition to capital outlay or debt service, this bill allows a local school board with an enrollment of fewer than 2,500 students to use the proceeds from a capital outlay levy for certain maintenance and operations functions for fiscal years 2011-12, 2012-13 and 2013-14. However, the school board is to notify the public of the use of these funds for operation and maintenance prior to the board's budget hearing and at a budget hearing required in Section 53A-19-102.

HB 156 Assessment of Property With Conservation Easement

Effective May 10, 2011

Statutory provisions relating to the assessment of property subject to a conservation easement are modified. It requires the county assessor to consider the value of the easement on the property and neighboring properties and adds factors that are to be considered in the assessment of conservation easements including: (1) value that transfers to a neighboring property because of the presence of the conservation easement on the property being assessed; (2) practical and legal restrictions on the development potential of the property because of the conservation easement; (3) the absence of neighboring property with a similar easement to provide a basis for comparison; and (4) any other factor that causes the fair market value of the property to be affected because of the presence of a conservation easement. Before January 1, 2012, each owner

of property subject to a conservation easement recorded before May 10, 2011 is required to deliver to the county assessor a copy of the conservation easement and proof that it has been recorded. Also, within 10 days after a new conservation easement is recorded, the property owner is required to deliver to the county assessor a copy of the conservation easement and proof that the conservation easement has been recorded.

HB 190 Delinquent Property Tax Amendments

Effective January 1, 2011

Beginning January 1, 2011, this legislation adjusts the interest rate charged on delinquent personal property taxes to be the same as the interest rate charged on delinquent real property taxes. The interest rate is equal to the sum of 6% and the federal funds rate target and may not be less than 7% or more than 10%. Also, this legislation adjusts the minimum penalty for failure to file a personal property signed statement to 10% of the estimated tax due, but not less than \$25; the penalty was previously 10% of the estimated tax due, but not less than \$100.

HB 195 Debt Service Obligations of a Divided School District

Effective May 10, 2011

Requires a new school district created on or after May 10, 2011 to equalize values and revenues each year to meet the outstanding bonded debt obligations of the divided school district. Property within both the new school district and the remaining district is to be valued every year and a uniform rate is to be imposed that generates the amount of revenue required each year to meet the outstanding bonded debt obligations of the divided school district. Under current law, a school district that splits divides responsibility for existing GO bonds based on property values as of the year before the new district begins to provide services.

HB 230 Disability Amendments

Effective January 1, 2011

This legislation updates and replaces defined terms for “disabilities” throughout the Utah Code. It replaces the term for mental retardation with intellectual disability, crippled with disability, disabled person with persons with disabilities, mentally ill person with person with mental illness, paraplegic with person with paraplegia, and guilty and mentally ill with guilty with a mental illness. For property tax purposes, the term “disabled” veteran is to be replaced with veteran “with a disability” and the term “the disabled” is to be replaced with “people with a disability”.

HB 262 Divided School District Assets and Liabilities

Effective January 1, 2011

This legislation modifies provisions pertaining to allocation of the assets and liabilities of certain divided school districts. It specifies how the assets and liabilities of a divided school district shall be allocated between the new school district and the remaining school district when a school district is created pursuant to a proposal made by city or interlocal-agreement participants. The legislation defines both a discretionary asset or liability and a nondiscretionary asset or liability. It allocates discretionary assets and liabilities in proportion to the student populations of the school districts. It allocates a nondiscretionary asset to the school district where the project, school, student, or employee to which the nondiscretionary asset is tied. Vehicles used for student transportation are to be allocated based on the transportation needs of the schools.

HB 268 Municipal Enforcement Regarding Property Maintenance Effective May 10, 2011

Amends provisions related to a municipality's authority to regulate the inspection and abatement of weeds, garbage, refuse and unsightly objects on real property. Section 10-11-2 was repealed and reenacted. County treasurers no longer participate with enforcement, notices and hearings pertaining to cleaning up untidy property in violation of municipal property maintenance ordinances. Relative to the cost of clean-up accomplished by the city, this legislation changes how the property owner's appeal rights are administered. In the past, the property owner could appeal to the county legislative body to dispute what the city charged for cleanup; this legislation requires the owner to address appeal concerns with the applicable city. If the city is not paid in a timely fashion by the property owner for work performed, the city may file an action in district court and sue for a judgment or certify the cost with the county treasurer for inclusion on the assessment roll. Other legislation (SB 290) makes an additional change to Section 10-11-1 requiring that a city may not prohibit a property owner/occupant from selecting someone of their choosing to resolve a weed, garbage or demolition issue. However, this right is forfeited if the owner/occupant does not comply with the cleanup request within a reasonable time period as outlined by the city's ordinance.

HB 275 School District Division Amendments

Effective May 10, 2011

This legislation sets standards for newly divided school districts dividing after May 10, 2011. If a district divides and the new district has greater value than the remaining district then the provisions of this legislation would apply. The language requires both districts to levy the same tax rates that were levied by the combined school district in the year before the split was made. These tax rates are to be based on the same revenue that the rates generated in the year prior to the qualifying tax year. The tax rates are to be equalized between the two districts and the two districts have to continue these levies for five years. The monies from these tax rates are to be distributed by the county treasurer based on student enrollments through a formula determined by the State Board of Education. School districts, by going through TNT, may increase revenues.

HB 301 School District Property Tax Revisions

Effective January 1, 2012

Consolidates school district property tax levies and repeals the authority of a school district to impose certain property tax levies. Beginning January 1, 2012, it eliminates some property tax levies, the main ones are: board approved leeway of up to .0004; up to 10% levy of the cost of the basic program; board leeway for reading improvement and tax levy for payment of claims, judgments and insurance. Beginning January 1, 2012, it authorizes a school district to impose a board local levy and a capital local levy compensating for the levies eliminated. It allows for an exemption from truth-in-taxation notice and hearing requirements if the sum of the proposed new tax rates does not exceed the sum of the old tax rates.

HB 371 Motor Home Taxes and Fees

Effective May 10, 2011

Provides that a motor home brought into the state straight into a licensed dealer's inventory is not subject to the uniform statewide fee, regardless of whether property taxes or uniform fees imposed by the state of origin have been paid for the current year.

HB 446 Local District Tax Amendments

Effective May 10, 2011

“Law enforcement service” is added to the list of services that a local district can provide for a service area located in 1st or 2nd class counties while not exceeding a .0023 property tax levy. A service area providing law enforcement services with a property tax levy may not collect a generally assessed fee imposed under Section 17B-1-643 or any other generally assessed fee for law enforcement services.

SB 1 Public Education Base Budget

Effective July 1, 2011

Sets the estimated minimum basic tax rate at .001628 for fiscal year 2011-12; this is an estimated rate for 2011-12 that will bring in approximately \$284,221,713 in revenues, an increase from \$273,950,764 for 2010-11.

SB 21 Tax Revisions

Effective January 1, 2012

Amends the Property Tax Act and the Individual Income Tax Act addressing procedures related to the property tax residential exemption and the determination of domicile for individual income tax purposes. USTC is to include on the Utah individual income tax return a statement for a property owner to declare that he no longer qualifies to receive a property tax residential exemption under 59-2-103 and the legislation allows USTC to share this information with the counties for property tax residential exemption determination purposes. Along with declaring on the individual income tax return that he no longer qualifies to receive the residential exemption authorized under Section 59-2-103, the person is to file a written statement (form) with the county board of equalization notifying them that he no longer qualifies to receive the residential exemption. The person is not required to file a written statement if the person, (1) changes primary residences, (2) qualified to receive the residential exemption for the former primary residence, or (3) qualifies to receive the residential exemption for the current primary residence. Also, it addresses the determination of domicile for purposes of Title 59, Chapter 10, Individual Income Tax Act by setting out a bright line test for domicile, a rebuttable presumption test for domicile, and a test for domicile based on the facts and circumstances. It provides that a resident who leaves the state for 761 consecutive days and meets other conditions is not considered domiciled in the state.

SB 70 Community Development and Renewal Agencies

Effective May 10, 2011

Provisions of the Community Development and Renewal Agencies Act are amended. It authorizes an agency to extend collection of tax increment under adopted urban renewal and economic development project area budgets. It amends urban renewal, economic development and community development project area budget provisions and clarifies that an agency is not required to obtain approval of the taxing entity committee for a community development project area budget. Under an urban renewal or economic development project, a taxing entity committee is not required to meet annually if the agency submits, each year before November 1, to the county auditor, Utah State Tax Commission (USTC), the State Board of Education and each appropriate taxing entity a report containing the following information: (1) an assessment

of growth of incremental values for each active project area, (2) a description of the amount of tax increment received by the agency and passed through to other taxing entities from each active project area, (3) a description of activity within each active project area, and (4) a revised multi-year tax increment budget related to each active project area. If an agency does not file this report, then the agency must file an annual report to USTC, the county auditor, the State Board of Education and each appropriate taxing entity a report to include: (1) estimates of tax increment, (2) narrative description of each active project area within the agency's boundaries, (3) narrative description of any significant activity related to each active project area occurring during the preceding fiscal year, and (4) summary of the overall project timeline and other information specifically requested.

SB 85 Legal Notice Amendments

Effective May 10, 2011

Because the property tax truth-in-taxation (TNT) statute [59-2-919(6)(a) (iii)] requires publication of advertisements on the Utah Public Notice Website created in Section 63F-1-701, TNT advertisements are not "legal notices", therefore, are not published on the public legal notice website. Also, it declares that the notice of delinquency or publication of the delinquent list by the county treasurer is not a legal notice. This legislation makes uniform the publication of statutorily required legal notices. A public legal notice website is a website established by the combined efforts of Utah's newspapers that collectively distribute newspapers to the majority of newspaper subscribers in the state. A newspaper that publishes a legal notice in the newspaper is not to charge more than its average advertisement rate and requires the newspaper to publish the legal notice on the public legal notice website at no additional cost. Finally, it eliminates an exception from publication requirements for first and second class counties.

SB 125 Property Tax Amendments

Retroactive to January 1, 2008

This legislation has retrospective operation to taxable year beginning on or after January 1, 2008. It modifies the property tax exemption for property owned by a nonprofit entity that is used exclusively for religious, charitable or educational purposes. It expands the "educational purposes" portion of the exemption to include the physical or mental (or an activity in support of or incidental to), teaching, training or conditioning of competitive athletes by a national governing body of sport for the USOC that qualifies as being tax exempt under Section 501(c) (3) of the IRS Code. Also, it provides that a charter school is considered to be a school district for purposes of the property tax exemption for property of a school district.

SB 157 Property Tax Revisions

Effective May 10, 2011

Authorizes the State Tax Commission to enter into agreements with commercial/industrial taxpayers (not to exceed 20 years), providing for equal property tax payments if: (1) the payment schedule is based on an accepted valuation methodology that reasonably estimates the property's anticipated fair market value over the payment period, (2) there is a provision making the initial equal payment schedule subject to an annual adjustment to account for differences in fair market value, (3) Utah State Tax Commission (USTC), taxpayer and each affected taxing entity approves the agreement, and (4) the total amount paid under the agreement is no less than the amount owed absent the agreement. For purposes of enforcing a tax lien, the taxpayer's failure to

pay the full amount of taxes (required to have been paid in the absence of an agreement) does not constitute a failure to pay the full amount of taxes owing if the taxpayer pays the full amount owing declared in the agreement. It authorizes the commission to revise, accelerate or cancel equal payment agreements for specified reasons listed in Section 59-1-1004. USTC is to promulgate rules to ensure that revenues derived from agreement payments do not affect the certified tax rate calculation. Finally, USTC is to provide annually an assessment of the effects of equal payment agreements to the Revenue and Taxation Interim Committee.

SB 278 Charter School Property Tax Amendments

Retroactive to January 1, 2008

A new section (53A-1a-522) was added to the State System of Public Education statutes providing that, for purposes of a property tax exemption, a charter school is considered to be a school district. Similar language was also added to Section 59-2-1101 in the Property Tax statutes by SB 125.