

APPEAL # 25-15

TAX TYPE: PROPERTY TAX

TAX YEAR: 2024

DATE SIGNED: 08/26/2025

COMMISSIONERS: J. VALENTINE, R. ROCKWELL, M. CRAGUN AND J. FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER-1 AND TAXPAYER-2, Petitioners, v. BOARD OF EQUALIZATION OF COUNTY-1 COUNTY, STATE OF UTAH, Respondent.	INITIAL HEARING ORDER Appeal No. 25-15 Parcel No: ##### Tax Type: Property Tax Tax Year: 2024 Commissioner: Cragun
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This order may contain confidential "commercial information" as defined in Utah Code Ann. §59-1-404. "Commercial information" may be subject to disclosure restrictions as provided in Utah Code Ann. §59-1-404 and Utah Administrative Rule R861-1A-37. Utah Administrative Rule R861-1A-37(7) provides that the Tax Commission may publish this decision, in its entirety, unless the property taxpayer that provided the commercial information indicates to the Tax Commission in writing the specific commercial information that the property taxpayer wants protected. A request to protect commercial information shall be sent no later than 30 days after the issuance of this order to one or more of the following: taxredact@utah.gov or Utah State Tax Commission, Appeals Unit, 210 North 1950 West, Salt Lake City, Utah 84134.

Presiding:

Michael J. Cragun, Commissioner

Appearances:

For Petitioner: TAXPAYER-1, Property Owner

TENANT-1, Tenant

For Respondent: RESPONDENT'S REP-1, COUNTY-1 County Assessor

STATEMENT OF THE CASE

Petitioners ("the Taxpayers") bring this appeal from the decision of the COUNTY-1 County Board of Equalization ("the County"). This matter was argued in an Initial Hearing on July 9, 2025 in accordance with Utah Code Ann. §59-1-502.5. The County denied the Taxpayers' 2024 primary residence exemption application for the subject property.

APPLICABLE LAW

Utah Code Ann. §59-2-103 provides for the assessment of property, as follows:

- (1) As used in this section:
 - (a) (i) "Household" means the association of individuals who live in the same dwelling, sharing the dwelling's furnishings, facilities, accommodations, and expenses.
 - (ii) "Household" includes married individuals, who are not legally separated, who have established domiciles at separate locations within the state.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."
- (2) All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.
- (3) Subject to Subsections (4) through (7) and Section 59-2-103.5, for a calendar year, the fair market value of residential property located within the state is allowed a residential exemption equal to a 45% reduction in the value of the property.
- (4) Part-year residential property located within the state is allowed the residential exemption described in Subsection (3) if the part-year residential property is used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption.
- (5) No more than one acre of land per residential unit may qualify for the residential exemption described in Subsection (3).
- (6) (a) Except as provided in Subsections (6)(b)(ii) and (iii), a residential exemption described in Subsection (3) is limited to one primary residence per household.
- (b) An owner of multiple primary residences located within the state is allowed a residential exemption under Subsection (3) for:
 - (i) subject to Subsection (6)(a), the primary residence of the owner;
 - (ii) each residential property that is the primary residence of a tenant; and
 - (iii) subject to Subsection (7), each residential property described in Subsection 59-2-102(34)(b)(ii).
- (7) Before residential property described in Subsection 59-2-102(34)(b)(ii) is allowed a residential exemption described in Subsection (3), an owner of the residential property shall file with the county assessor a written declaration that:
 - (a) states under penalty of perjury that, to the best of each owner's knowledge, upon completion of construction or occupancy of the residential property, the residential property will be used for residential purposes as a primary residence;
 - (b) is signed by each owner of the residential property; and
 - (c) is on a form prescribed by the commission.

For purposes of the 45% residential property tax exemption, "residential property" is defined in Utah Code Ann. 59-2-102(34) as follows:

- (34) (a) "Residential property," for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.
- (b) "Residential property" includes:

- (i) except as provided in Subsection (34)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:
 - (A) used exclusively within a dwelling unit that is the primary residence of a tenant; and
 - (B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and
- (ii) if the county assessor determines that the property will be used for residential purposes as a primary residence:
 - (A) property under construction; or
 - (B) unoccupied property.
- (c) "Residential property" does not include property used for transient residential use.
- (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (31) and this Subsection (34).

Utah Code Ann. §59-2-103.5(1) provides procedures to obtain an exemption for residential property, as follows:

- (1) Subject to Subsections (4), (5), (6), and (11), for residential property other than part-year residential property, a county legislative body may adopt an ordinance that requires an owner to file an application with the county board of equalization before the county applies a residential exemption authorized under Section 59-2-103 to the value of the residential property if:
 - (a) the residential property was ineligible for the residential exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to have the residential exemption applied to the value of the residential property;
 - (b) an ownership interest in the residential property changes; or
 - (c) the county board of equalization determines that there is reason to believe that the residential property no longer qualifies for the residential exemption.

The term "primary residence," as used in Utah Code Ann. § 59-2-102(34), is not defined in Utah Code Ann. §59-2-102. It is, however, defined by Utah Administrative Rule R884-24P-52, which also sets forth the criteria for determining property tax domicile, as follows in pertinent part:

- ...
- (2) "Primary residence" means the location where domicile has been established.
- (3) Except as provided in Subsections (4) and (6)(c) and (f), the residential exemption provided under Section 59-2-103 is limited to one primary residence per household.
- (4) An owner of multiple properties may receive the residential exemption on all properties for which the property is the primary residence of the tenant.
- (5) Factors or objective evidence determinative of domicile include:
 - (a) whether or not the individual voted in the place he claims to be domiciled;
 - (b) the length of any continuous residency in the location claimed as domicile;
 - (c) the nature and quality of the living accommodations that an individual has in the location claimed as domicile as opposed to any other location;
 - (d) the presence of family members in any given location;

- (e) the place of residency of the individual's spouse or the state of any divorce of the individual and his spouse;
- (f) the physical location of the individual's place of business or sources of income;
- (g) the use of local bank facilities or foreign bank institutions;
- (h) the location of registration of vehicles, boats, and RVs;
- (i) memberships in clubs, churches, and other social organizations;
- (j) the addresses used by the individual on such things as:
 - (i) telephone listings;
 - (ii) mail;
 - (iii) state and federal tax returns;
 - (iv) listings in official government publications or other correspondence;
 - (v) driver's license;
 - (vi) voter registration; and
 - (vii) tax rolls;
- (k) location of public schools attended by the individual or the individual's dependents;
- (l) the nature and payment of taxes in other states;
- (m) declarations of the individual:
 - (i) communicated to third parties;
 - (ii) contained in deeds;
 - (iii) contained in insurance policies;
 - (iv) contained in wills;
 - (v) contained in letters;
 - (vi) contained in registers;
 - (vii) contained in mortgages; and
 - (viii) contained in leases.
- (n) the exercise of civil or political rights in a given location;
- (o) any failure to obtain permits and licenses normally required of a resident;
- (p) the purchase of a burial plot in a particular location;
- (q) the acquisition of a new residence in a different location.

...

A person may appeal a decision of a county board of equalization, as provided in Utah Code Ann. §59-2-1006, in pertinent part below:

- (1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board.

A party claiming a property tax exemption has the burden of proof, and must demonstrate facts to support the application of the exemption. *See Butler v. State Tax Comm'n*, 367 P.2d 852, 854 (Utah 1962). As noted by the Utah Supreme Court in *Corporation of the Episcopal Church in Utah v. Utah State Tax Commission and County Board of Equalization of Salt Lake County*, 919 P.2d 556, 558 (Utah 1996), "Exemptions are strictly construed. The rule should not be so narrowly applied, however, that it defeats

the purpose of the exemption. The burden of establishing the exemption lies with the entity claiming it, although that burden must not be permitted to frustrate the exemption's objectives (internal citations omitted)."

DISCUSSION

The subject property is a residence located in CITY-1, Utah. The Taxpayer explained that purchasing a home for his company's employees to use was more cost effective than paying for short term lodging. After purchasing the subject property, the Taxpayer submitted to the County a 2024 primary residence exemption application because the County adopted an ordinance as provided in Utah Code Ann. §59-2-103.5(1). The County denied the application finding that the subject property was used for transient housing not as the residence of a tenant. A primary factor in the County's determination was the lease for the subject property included with the Taxpayers' application. The Taxpayer had signed the lease between the Taxpayers and the Taxpayers' company both as property owner and principal for his company.

At the Initial Hearing, the Taxpayer explained that the subject property includes a house and an accessory dwelling unit (ADU). He acknowledged that two of his company's employees stay in the ADU during the workweek and return home on weekends. However, another of his employees, who attended the Initial Hearing, stays in the house with his family for more than half of the calendar year. He argued that this family are tenants and the subject property qualifies for the exemption.

The County's representative expressed continuing concern that the Taxpayers' employee did not live in the subject property with his family full-time because the Taxpayers' company engaged in seasonal work. However, he did concede that the subject property is not used as a short term rental.

The Taxpayers' employee explained that he and his family have occupied the subject property for increasing periods in succeeding years as each work season expands. However, when not living in the subject property, the Taxpayers' employee and his family live in another property the Taxpayers own in CITY-2. The CITY-2 property receives the residential exemption as permitted under Utah Code Ann. §59-2-103(6)(b)(ii). On this basis, the Commission concludes that the Taxpayers' employee and his family established domicile at the CITY-2 property before occupying the subject property.

The Commission must examine whether the Taxpayers' employee and his family changed their domicile from the CITY-2 property to the subject property based upon the "factors or objective evidence determinative of domicile" set forth in Utah Administrative Rule R884-24P-52(5). The Taxpayers' employee stated that the subject property has five bedrooms compared to two bedrooms in the CITY-2 property. He and his wife homeschool their children. They are not registered to vote. While they receive mail primarily at the subject property, they used the CITY-2 address when filing their tax returns. They have an ATV registered at the subject property's address, but their cars are registered at the CITY-2

address. They participate in no clubs and do not attend a church. The addresses on their driver licenses are at neither the subject property nor the Spanish Fork property.

Of the Rule R884-24P-52(5) factors for which the Commission has available information, nature and quality of the living accommodations and address used on mail support domicile at the subject property. Vehicle registration and tax return addresses support domicile at the CITY-2 property. Despite the argument that the Taxpayers' employee and his family have occupied the subject property for increasing periods in succeeding years as each work season expands, the Commission finds the Rule R884-24P-52(5) factor for length of any continuous residency inapplicable because the available information suggests that the Taxpayers' employee and his family continuously occupy both properties. Therefore, the available information¹ does not support a finding that the Taxpayers' employee and his family changed their domicile from the CITY-2 property to the subject property.

The Taxpayers have not met their burden to demonstrate facts supporting the application of the exemption.

DECISION AND ORDER

Based on the foregoing, the Commission sustains the County's denial of the Taxpayers' 2024 primary residence exemption application for the subject property. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed, or emailed, to the address listed below and must include the Petitioner's name, address, and appeal number:

¹ The Commission notes that should the Taxpayers request a Formal Hearing and the parties provide additional evidence concerning domicile for the Taxpayer's employee and his family, the Utah Code Ann. §59-2-103(6)(a) "one primary residence per household" limitation may become an issue.

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

or emailed to:

taxappeals@utah.gov

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this _____ day of _____, 2025.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner