

# Overview of Utah's Property Tax

## Utah State Constitution and Statutory Provisions

Utah Constitution Article XIII, Section 2 states that "all tangible property in the State that is not exempt under the laws of the United States or under this Constitution shall be: (a) assessed at a uniform and equal rate in proportion to its fair market value, to be ascertained as provided by law; and (b) taxed at a uniform and equal rate." <sup>1</sup>

The Property Tax Act codifies this constitutional mandate in Utah Code Ann. § 59-2-103, which states, "[a]ll 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. . . ." <sup>2</sup> "The hallmarks of these constitutional and statutory directives are the notions of uniformity, equality, and a universal measure of valuation -- fair market value." <sup>3</sup>

Utah Code Ann. § 59-2-102 defines the term fair market value to mean "the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts."<sup>4</sup> A primary factor in determining the fair market value of real property assessed by county assessors, such as residences and farmland, is recent comparable sales.<sup>5</sup>

The Utah Supreme Court has stated that a "critical factor is establishing assessments that represent reasonably accurate approximations of value is time. . . . An ad valorem tax system must, therefore, be based on periodic reassessments that take into consideration the fluctuating factors that affect value. To freeze the value of some properties at a given point in time, and not others, must necessarily result in nonuniform assessments." <sup>6</sup>

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<sup>1</sup> Utah Const. art. XIII, Sec. 2(1)(a).

<sup>2</sup> Utah Code Ann. § 59-2-103(1) (2007).

<sup>3</sup> *Mountain Ranch Estates v. Utah State Tax Comm'n*, 100 P.3d 1206, 1209 (Utah 2004).

<sup>4</sup> Utah Code Ann. § 59-2-102(12) (2007).

<sup>5</sup> "County assessed properties, such as residences and farmland, are assessed on the basis of cost or comparable sales..." *Rio Algom Corp. v. San Juan County*, 681 P.2d 184, 189 (Utah 1984). See also, *A. Tom Nelson v. Board of Equalization of Salt Lake County*, 943 P.2d 1354 (Utah 1997) (the court upheld the Salt Lake County Assessor's appraisal based on comparable sales).

<sup>6</sup> *Rio Algom Corp.*, 681 P.2d at 195.

## **Exemptions and Abatements**

The Utah Constitution allows the Legislature to exempt only certain property from taxation. The Utah Supreme Court presumes that "all exemptions intended to be granted were granted in express terms" in the Constitution.<sup>7</sup> The Legislature may not indirectly exempt property from taxation. If the legislature attempts to do indirectly, by enactment, that which it cannot do directly, under the Constitution, its enactment is void.<sup>8</sup>

Utah Constitution Article XIII, Section 3 contains the property tax exemptions and abatements.

Property constitutionally exempt from the property tax includes:

- property of federal, state, or local governments;
- properties owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;
- places of burial;
- farm equipment and farm machinery;
- libraries; and
- water rights, and certain other property associated with irrigation of agricultural land. <sup>9</sup>

Property that the Legislature may exempt from the property tax includes:

- household furnishings;
- up to 45% of the fair market value of residential property;
- inventories and property being held for shipment out of state;
- intangible property;
- property used to generate and deliver electrical power used to irrigate land; and
- personal property that, if taxed, would generate an inconsequential amount of revenue.<sup>10</sup>

Under current statute, 45% of the fair market value of primary residential property is exempt from taxation.<sup>11</sup> The Legislature defines in statute what is "primary" residential

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<sup>7</sup> *State ex. rel. Richards v. Armstrong*, 53 P. 981, 982 (Utah 1898).

<sup>8</sup> *Id.* at 983.

<sup>9</sup> Utah Const. art. XIII, Sec. 3(1).

<sup>10</sup> Utah Const. art. XIII, Sec. 3(2).

<sup>11</sup> Utah Code Ann. § 59-2-103 (2007) and Utah Const. art. XIII, Sec. 3(2)(iv).

property.<sup>12</sup> Under certain circumstances, agricultural land is not assessed at its fair market value, but at its value for agricultural purposes.<sup>13</sup> Certain property, such as cars and light trucks, is assessed using a fee schedule based on age.<sup>41</sup>

### **Property Tax Abatements and Deferrals**

In addition to the exemptions listed above, the property taxes of certain individuals may be abated. Some of these abatements are described below. Current Utah statutes allow abatements for the property of low income persons, blind persons, and disabled veterans or their widows or minor orphans.<sup>15</sup>

**Circuit Breaker Program** -- The circuit breaker program provides credits to reduce the general tax burden of eligible homeowners and renters over a certain age.<sup>16</sup> Eligibility and the amount of relief granted is determined on the basis of household income.<sup>17</sup> For 2007, an applicant must be at least 65 years old with a 2006 income not to exceed \$26,941.

**Property Tax Abatements or Deferrals** -- Property tax abatements or deferrals are allowed at the discretion of the county legislative body.<sup>18</sup> Age and income requirements may apply.

- **Abatements** -- The abatement may be up to 50% of the property tax due on a person's home, to a maximum of \$798.<sup>91</sup>

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<sup>12</sup> Utah Code Ann. § 59-2-102(31) and § 59-2-103 (2007).

<sup>13</sup> Utah Const. art. XIII, Sec. 2(3).

<sup>14</sup> Utah Const. art. XIII, Sec. 2(6).

<sup>15</sup> Utah Const. art. XIII, Sec. 3(2) and (3).

<sup>16</sup> The claimant must be at least 65-67 years old, depending on the year in which the claimant was born.

<sup>17</sup> See Utah Code Ann. §§ 59-2-1208 - 1209 (2007). The credit amount allowed for a homeowner may be between \$98 and \$798.

<sup>18</sup> See Utah Code. Ann §§ 59-2-1107 to 1109 (2007). For 2007, an applicant for an abatement or deferral must be at least 65 years old with a 2006 income not to exceed \$26,941. Abatements and deferrals are also available to people less than 65 years old where the applicant can demonstrate a disability or extreme hardship.

<sup>19</sup> Utah Code Ann. § 59-2-1107 (2007).

- **Deferrals** -- The county may defer any or all property taxes until a person's property is sold or ownership changes. Interest accrues annually on the deferred amount of taxes at a rate equal to the lesser of 6% or the targeted federal funds rate.<sup>20</sup>

**Veteran's Exemption** -- The veteran's exemption is available to veterans disabled in military service, and their unmarried surviving spouse or minor orphans. It is also available to the unmarried surviving spouse or minor orphan of a member of the military who was killed in action or died in the line of duty. The exemption is up to \$214,263 of the taxable value of a residence, based on the percentage of disability incurred in the line of duty. The veteran's exemption may also be applied toward the payment of personal property taxes or uniform fees on items such as a car.<sup>21</sup>

**Blind Exemption** -- The blind exemption is available to all legally blind property owners, and their unmarried surviving spouse or minor orphans, regardless of income or age. It exempts up to \$11,500 of the taxable value of real or personal property.<sup>22</sup>

### Other Systems of Assessment and Taxation

Like Utah, most states assess and tax real property based on the property's fair market value. Some states have adopted other systems of assessment and taxation to limit property tax increases. This may be done either by restricting or capping an increase in the property's value or by limiting or capping the tax rates that may be imposed. The most typical alternative to a market value assessment is an "acquisition-value" system.

#### **Acquisition-value**

Under an acquisition-value based system, a real property owner's tax liability is determined by the value of the real property when the taxpayer acquired it. Acquisition-value taxation essentially freezes a property's value to the time when purchased, when a change of ownership occurred, or to an arbitrary date. Depending on the state and variations on the system, the property's base value may be increased at a capped amount year by year or remain untouched until the property has a change in ownership. Some examples of states that have adopted an acquisition-value system are California, Florida, and Oregon.

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<sup>20</sup> Utah Code Ann. § 59-2-1108 (2007).

<sup>21</sup> See Utah Code. Ann §§ 59-2-1104 and 1105 (2007).

<sup>22</sup> See Utah Code. Ann § 59-2-1106 (2007).

## California

In 1978, voters enacted Proposition 13 which instituted acquisition-value property assessment and set limits on property tax rate increases. In California the base value of real property is set at the earlier of the property's 1975 market value or the property's market value at the time the owner acquired the property. Property values may increase with inflation (as represented by the CPI) up to 2 percent a year. If inflation is less than 2 percent, the assessed value increase is equivalent to that percentage. California also caps the property tax that may be levied on real property to 1% of the "full cash value of such property."<sup>23</sup>

## Florida

Similar to California's acquisition-value system, Florida limits property value increases to the lower of a 3 percent increase over the prior year's assessment or the percentage increase in the CPI. In no case may the property value ever exceed the property's fair market value.<sup>24</sup>

## Oregon

In 1997, Oregon adopted a "cut and cap" property tax system. The Oregon constitution fixes the maximum assessed value of real property at ninety percent of the property's 1995 fair market value and caps any increase in the maximum assessed value at three percent per year.<sup>25</sup> Also, the "cut and cap" system does not allow a taxing entity to increase its tax rate above the taxing entity's 1997-98 rate unless local voters, by a majority vote, allow the increase.

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<sup>23</sup> Cal. Const. art. XIII A (2008).

<sup>24</sup> Fla. Const. art. VII §4 (2008).

"(1) Assessments subject to this provision shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

- a. three percent (3%) of the assessment for the prior year.
- b. the percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967 = 100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(2) No assessment shall exceed just value."

<sup>25</sup> Ore. Const. art. 11, §11 (2008).