

TRUTH IN TAXATION - JUDGMENT LEVY

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Raymond W. Short

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11 AN ACT RELATING TO PROPERTY TAXES; PROVIDING THAT THE JUDGMENT LEVIES
12 BE SUBJECT TO TRUTH IN TAXATION; AND PROVIDING FOR RETROSPECTIVE
13 OPERATION.

14 This act affects sections of Utah Code Annotated 1953 as follows:

15 AMENDS:

16 **59-2-1328**, as last amended by Chapter 309, Laws of Utah 1997

17 **59-2-1330**, as last amended by Chapter 2, Laws of Utah 1997, Second Special Session

18 *Be it enacted by the Legislature of the state of Utah:*

19 Section 1. Section **59-2-1328** is amended to read:

20 **59-2-1328. Payment under protest -- Judgment for recovery -- Payment -- Tax levy.**

21 (1) (a) If it is determined in any action that a tax, or any portion of the tax, paid under
22 protest, was unlawfully collected, a judgment for recovery of the tax plus interest as provided by
23 law, together with costs of action, shall be entered in favor of the taxpayer.

24 (b) Upon being presented a duly authenticated copy of the judgment, the proper officer or
25 officers of the state, county, or municipality whose officers collected or received the tax shall audit
26 and allow the judgment, and cause a warrant to be drawn for the amount recovered by the
27 judgment.

28 (c) If the judgment is obtained against a county, and any portion of the taxes included in
29 the judgment are state, district, school, or other taxes levied by a taxing entity which have been or

30 may be paid over to the state or to any school district or other taxing entity by the county, the
31 proper officer or officers of the state, school district, or other taxing entity shall, upon demand by
32 the county, cause a warrant to be drawn upon the treasurer of the state, school district, or other
33 taxing entity in favor of the county for the amount of the taxes received, together with interest as
34 provided by law and an equitable portion of the costs of the action.

35 (2) (a) Each taxing entity may levy a tax to pay its share of the judgment under Subsection
36 (1).

37 (b) This levy is in addition to, and exempt from, the maximum levy established for the
38 taxing entity [~~and is exempt from the requirements of Sections 59-2-918 and 59-2-919~~].

39 Section 2. Section **59-2-1330** is amended to read:

40 **59-2-1330. Payment of property taxes -- Unlawful collection by county -- Liability**
41 **of state or taxing entity -- Disputed taxes.**

42 (1) Unless otherwise specifically provided by statute, property taxes shall be paid directly
43 to the county assessor or the treasurer when due.

44 (2) If the commission or a court of competent jurisdiction orders a reduction in the amount
45 of any tax levied against any property for tax purposes, the taxpayer shall be reimbursed under
46 Subsection (3).

47 (3) (a) The state and any taxing entity which has received property taxes or any portion of
48 property taxes is liable to a judgment debtor for the amount the state or the taxing entity received
49 plus interest as provided in Subsection (3)(b) if:

50 (i) the taxes are collected by the authorized officer of any county;

51 (ii) a taxpayer obtains a judgment or final order from the county board of equalization or
52 the commission against the county or an authorized officer of the county establishing that the taxes
53 have been unlawfully collected; and

54 (iii) any portion of the taxes has been paid to the state or to any taxing entity by the county
55 or its authorized officer.

56 (b) Interest under Subsection (3)(a) shall accrue:

57 (i) at a rate equal to the rate earned by the county;

58 (ii) (A) on the amount of taxes received from the time the state or a taxing entity received
59 the taxes; and

60 (B) for an equitable portion of the costs of action.

61 (4) (a) Each taxing entity may levy a tax to pay its share of the judgment or final order
62 under Subsection (3) if:

63 (i) the judgment or final order is issued no later than 15 days prior to the date the levy is
64 set under Subsection 59-2-924(2)(a); and

65 (ii) the amount of the judgment levy is included on the notice under Section 59-2-919.

66 (b) The levy under Subsection (4)(a) is ~~is~~ in addition to, and exempt from, the
67 maximum levy established for the taxing entity ~~and~~.

68 ~~[(ii) exempt from the requirements of Sections 59-2-918 and 59-2-919 except for~~
69 ~~Subsection 59-2-919(4).]~~

70 (5) (a) An owner of property assessed by the commission that has filed a valuation protest
71 pursuant to Section 59-2-1007 and has not received a final decision on that protest shall pay, on
72 or before the date of delinquency, the full amount of taxes due.

73 (b) A property owner that pays the full amount of taxes due under Subsection (5)(a) is not
74 required to pay penalties or interest on a disputed tax unless:

75 (i) a final decision is entered establishing a value greater than the value stated on the
76 disclosure notice under Section 59-2-1317; and

77 (ii) the property owner fails to pay the additional tax liability within a 45-day period after
78 the county bills the property owner for the additional tax.

79 Section 3. **Retrospective operation.**

80 This act has retrospective operation to January 1, 1999.

Legislative Review Note
as of 1-25-99 11:18 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel