



A History of Property Tax in Utah

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HIGHLIGHTS

- Property taxes have continuously been imposed in Utah for over 160 years. Until the 1930s, the property tax was the main source of revenue both for the state and for local governments.
- When the Great Depression hit, the state began reducing its reliance on property taxes in favor of income and sales taxes. Although local governments still rely on the property tax today, the property tax has also diminished as a local government revenue source in favor of various sales and excise taxes and fees.
- Large portions of the property tax have consistently been used for public education. Municipalities, counties, and local/special service districts also impose property taxes.
- Over time, the property tax has changed from a "general" property tax with nearly all property taxed uniformly to a classified system that treats different classes of property differently.
- Ongoing challenges over the years have included difficulties in accurate property valuation and major disparities in taxable values among local taxing entities.

Utah's Property Tax History¹

The property tax in Utah has a long and storied history. Within two years following the arrival of the initial Mormon pioneers in the Salt Lake Valley, the first property tax in Utah was instituted. Since imposition of that initial property tax, the tax has continued in some form for over 160 years. More than just intriguing trivia, understanding the state's property tax history provides important context for understanding the state's property tax system and overall revenue system as it exists today.

Remarkably, property tax studies conducted in previous eras of Utah's history highlight many issues identical to those that policymakers grapple with today. A review of Utah's property tax history reveals the following:

- (1) major initial dependence on the property tax, followed by diminished use since the Great Depression;
- (2) ongoing difficulties meeting the constitutional and statutory mandate to impose property taxes based on property market values;
- (3) since statehood, a narrowing of the property tax base from a "general" property tax that applied equally (at least in theory) to nearly all property, to today's classified property tax system that fully or partially exempts various property types from taxation at full fair market value; and
- (4) enormous disparities in taxable property values among local taxing entities, including school districts.

This briefing paper reviews the history of property taxes in Utah since the arrival of the Mormon pioneers.

PRIOR TO STATEHOOD

Economist Jewell Rasmussen aptly states that, "The history of taxation in early decades of the Territory and State of Utah is largely a history of the property tax, its uses, assessment levels and application to different types of property." Although other taxes and fees such as a poll tax, a liquor tax, and tolls were imposed during this time, the property tax provided the vast majority of state and local government revenue during the early history of Utah.

First Property Tax in Utah

The property tax in Utah appears to date to February 9, 1849, when in a meeting of the quasi-governmental Council of Fifty at W. W. Phelps' school room, "[i]t was resolved that a tax of one per cent per annum be assessed on property, to repair public highways, bridges, and other works; that Albert Carrington be assessor, collector, and treasurer, with certain discretionary powers in collecting from the poor and widows."² John D. Lee's account of that meeting indicates Brigham Young's preference that he "would rather raise the tax to 1½ per ct, than to reduce it to ½ per ct" and emphasizes

the assessor's directive to "pin down upon the rich and penurious, and when he comes to a poor man or widow that is honest, instead of taxing them, give them a few dollars."³

State of Deseret⁴

Although the provisional State of Deseret was announced about the same time as this meeting of the Council of Fifty and the provisional state's General Assembly organized itself in July 1849, the General Assembly did not assemble to enact laws until December 1849. On January 10, 1850, the provisional state's General Assembly adopted a two percent property tax for that year. Notably, the two percent tax rate imposed in 1850 represented a doubling of the prior year's tax rate of one percent. The tax was imposed on tangible personal property, improvements to real property, and intangible property in the form of money loaned or on hand. Specific exemptions were enacted for public property, burial grounds, and certain property belonging to religious groups. Interestingly, land was exempt from this initial property tax because title remained with the United States government.

The ordinance also provided for an assessor in each county, who also served as the tax collector. Assessors were required "to assess all property at its current value, and collect the amount of tax arising thereon without delay, and pay over or remit all amounts so collected, into the public Treasury, as often as once in each month." The statute further provided that, if anyone tried to evade the tax, "it shall be the duty of the Assessor and Collector to enforce the collection thereof, in the most summary manner: provided, he shall in no case distress the widow, and the fatherless, nor oppress the honest poor." Those who did not accurately disclose property or otherwise attempted to evade the tax were subject to a very hefty \$1,000 fine.

In addition to the original exemption for the needy, on July 4, 1850, the General Assembly enacted additional property tax exemptions for "iron, steel, castings, glass, nails, hardware, hollowware, glass and queensware, paints, oils, dye-stuffs, tea, coffee, sugar, rice, molasses, dried fruit and all other groceries, together with medicines, boots, shoes, and all kinds of leather." This was apparently done in an attempt to encourage development of specific local industries for self-sufficient local production, which was to be emphasized over imports.

Territory of Utah⁴

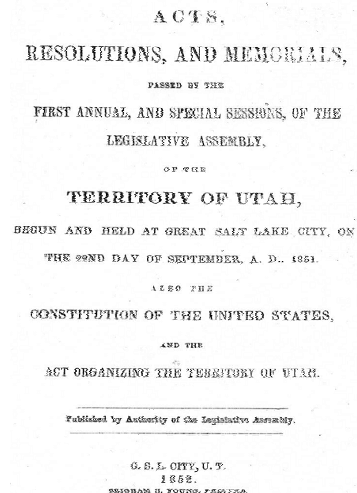
The United States government recognized Utah as a territory in September 1850 rather than approving the hoped-for State of Deseret. However, it took about a month for the news to reach Utah and several months more for the organizational details to reach the newly

authorized territory. For various reasons, it took nearly a year for the new officers of the newly created Territory of Utah to assemble. Until the territorial Legislature enacted new laws, the State of Deseret continued to act as the government authority. An ordinance enacted by the provisional state's General Assembly on January 6, 1851 provided for continuation of the two percent property tax in 1851.

The first Legislature of the Territory of Utah assembled in September 1851 and on October 4 incorporated laws previously enacted by the State of Deseret until changed by the territorial Legislature.

The territorial Legislature officially enacted new revenue laws on February 4, 1852, marking the first revenue provisions enacted in Utah by a government entity officially recognized by the United States. On that date, the territorial Legislature imposed an ad valorem property tax on all personal property and improvements to real property, at a rate of one percent (see Figure 1). Historian Hubert Bancroft indicates that as of 1852, taxable values in the territory were about \$1.16 million, or roughly \$400 per capita. Only about ten percent of tax payments were made with cash. Grain was the most common payment method.⁵

Figure 1
Territory of Utah Tax Statute (1851)



SEC. 2. It shall be the duty of the assessor and collector to assess annually, and collect a Territorial tax of one per cent upon all personal property, money loaned or on hand, improvements on real estate, merchandize, stock in trade, and stock actually paid in any incorporate company; all improvements made under the provisions of any act of this Territory, granting a private charter to any person or persons for any purpose whatever: *Provided*, That the arms of military companies that are kept constantly on hand for the public defence; public property belonging to any religious society for public purposes; the property of the University and public school houses, and burial grounds, shall be exempt from all assessments.

Proviso.

Revisions by Territorial Legislature

In 1865, the territorial Legislature amended the laws relating to assessing and collecting property taxes. The property tax was divided among a territorial tax of one half percent and a county tax imposed by the county court, up to one half percent.

Tax laws were amended again the next year to provide funding for the common schools, with the opportunity for very sizable revenue increases for schools if approved by a supermajority of property owners. "For school purposes, a tax not exceeding one fourth percent was to be levied by the trustees of each district; but this might be increased to as much as three percent by vote of two thirds of the taxpayers."⁵

The territorial Legislature expanded the property tax base in 1878 when it imposed the first general ad valorem tax on all real and personal tangible and intangible property, with specified exclusions such as government property. This increased emphasis on a "general" property tax was part of a larger movement within the United States that took place during the 1800s which emphasized universality and uniformity in property taxation.

EARLY STATEHOOD

Early Constitution

Upon statehood in 1896, the newly enacted Utah Constitution established the legal framework within which the fledgling state and its local government units could impose property taxes. Utah was the last of 33 states in the 1800s that embedded provisions for a "general" (that is, uniform and universally applicable to nearly all property) property tax into its state constitution.⁶

The original constitutional provisions stated that, "All property in the State, not exempt under the laws of the United States, or under this Constitution, shall be taxed in proportion to its value, to be ascertained as provided by law. The word property, as used in this article, is hereby declared to include moneys, credits, bonds, stocks, franchises and all matters and things (real, personal, and mixed) capable of private ownership." The constitution further required the Legislature to "provide by law a uniform and equal rate of assessment and taxation on all property in the State, according to its value in money" and to "prescribe by general law such regulations and shall secure a just valuation for taxation of all property; so that every person and corporation shall pay a tax in proportion to the value of his, her or its property."⁷ The clear intent of the original constitution was that the property tax, with certain exceptions such as government and religious property, was to apply

generally to all property – both real and personal, tangible and intangible.

Although principles of the general property tax were conspicuously embedded in the original state constitution, the movement away from the general property tax began almost immediately, through both official and unofficial means. The unofficial shift began almost immediately with the way the system was actually administered, which did not adhere to the lofty constitutional principles of universality and uniformity. The official shift began with constitutional amendments in 1900 providing for expanded irrigation exemptions and an exemption for the poor, followed by an exemption for mortgages in 1906 and a homestead and personal property exemption in 1918.

Part of the reason for the shift away from a general property tax is that it turned out to be extremely difficult for tax officials to administer. Special difficulty existed in the areas of tangible personal property, such as livestock and household furnishings, and intangible property, such as money and stocks. Most household personal property is mobile, making it easy for property owners to move or hide and difficult for tax collectors to track. Intangible property is also difficult to track and sometimes difficult to value. Taxation of money provided an economic incentive to deposit money with out-of-state financial institutions or use other methods to avoid or evade the property tax.

Board of Commissioners (1913)⁸

Early on, the state Legislature recognized the need for improvement in the state's revenue system. In 1911, the Legislature created a Board of Commissioners on Revenue and Taxation to study the state's tax system and make recommendations for improvement. As part of this process, the board participated in early meetings of the National Tax Association to solicit input into good tax policies. The board considered recommending the imposition of an income tax, but decided to wait and see how other states' recently imposed income taxes turned out in practice.⁹

One task the board undertook was a detailed examination of property valuation practices. Although, "our Constitution and laws are now and have always been replete with demands for assessment at full value and provide dire penalties upon both taxpayers and officials who disregard such demands," even at this early date these provisions were not followed in practice. The board complained that, "The wanton disregard of these plain provisions of the law has reached such an extent, and has been so long continued that even our best citizens, men whose word even, to say nothing of their oath, is considered synonymous with probity and

integrity in the ordinary business of life, have come to look upon falsification of tax returns as a matter of course, their sworn statement as affecting taxation of no more consequence than empty air."

A mere decade and a half after enactment of the state's constitution and its provisions for a general property tax, the board found property assessed values varied from a low of 9 percent to a high of 70 percent of actual market value, with an average of about 30 percent. Regarding this finding, the board commented that, "Our state sends out its twenty-seven assessors, and innumerable deputies, each a law unto himself, without system or method or instruction, under a law demanding assessment at full value, yet recognizing in practice, and even in statutory enactments, the pernicious system of undervaluation that has so long and so universally obtained. Such a system cannot fail to produce results that are incongruous, inconsistent, and inequitable, and the wonder is that they are not worse than they are . . . it is universally recognized that the greatest need of any state respecting taxation, is to obtain a fair and equitable assessment."

Despite these major systemic shortcomings, the board recommended retaining the existing Board of Equalization structure at the state level, with local assessors basically in charge of assessment; although it recommended significantly enhancing the Board of Equalization's powers to oversee the property tax system and to equalize values among counties. The board also recommended various changes to improve property tax assessment and administration. For example, one board recommendation was mandatory sales price disclosure when property was sold, so that assessors had access to accurate data with which to do their job. As another example, the board recommended assigning parcel numbers to each property rather than using the property's lengthy legal description for assessment purposes.

The Board of Commissioners also commented on the distribution of taxable values throughout the state, finding that the existing laws were inequitable and unjust with regard to distribution of tax revenues, due to the presence of companies with large taxable values within particular taxing entities. "It is not alone the people of the counties and school districts wherein are located the important railroads and other public utilities that contribute to their support and maintenance, but the people of the whole State, and hence all are entitled, in equity, to share in the benefits of the taxation of such property. And further, it is an unquestioned fact that the present system permits the patrons of school districts and the citizens of counties in which such public utility is located immense advantages of revenue, school

facilities, etc., not enjoyed by other districts and counties so favored."

Tax Revision Commission of 1929¹⁰

Although some administrative improvement resulted from the Board of Commissioners' recommendations, major property tax issues continued in the fifteen years after the Board of Commissioners' report in 1913. Consequently, the Legislature created the Tax Revision Commission of 1929 to conduct another major study of the state's revenue system. This commission's activities laid the groundwork for many components that form the backbone of Utah's current tax system.

One key point of contention early on was the constitutional requirement to tax intangible property, such as money and stocks, the same as tangible property. The commission urged repeal of the provision taxing intangible property, arguing that taxation of intangible property is defective in principle, because in many instances it amounts to double taxation of the underlying tangible property, and defective in operation, because the tax was applied very unequally.

For example, the issue of double taxation arises from the fact that at least a portion of the value of a business' stock is due to the property that it owns, which is already subject to taxation. Regarding unequal application, bank deposits in the state were estimated to be about \$100 million in 1928, but that same year the taxable value of money was only \$259,244. This represents a ratio of assessed value to actual value of about 0.3 percent, an astounding level of underassessment. In many cases, widows and orphans were among the few who ended up paying a tax on intangible property because the property was disclosed as a public record with estate settlement. One estimate from the commission indicates that intangible property constituted nearly 25 percent of total actual property values, but only about 3 percent of taxed property values.

The commission recommended imposition of both individual and corporate income taxes, which would be accompanied by an overall reduction in property taxes and elimination of the property tax on intangible property when income taxes were imposed. The Tax Revision Commission's recommendations were very important because they began the movement toward the revenue system the state has today, in which the property tax is a component of a more balanced state and local government revenue framework.

In another important development, the Tax Revision Commission also highlighted the inadequacies of the State Board of Equalization and recommended it be replaced with a professional State Tax Commission,

which would be given ample authority to equalize property values and generally oversee the tax system. The commission also recommended a list of changes to improve assessment functions, which would be overseen and directed by the new State Tax Commission.

Taxable Value Disparities

The disparity of property tax values among different taxing entities, especially schools, also continued as an issue in this era. For example, one writer suggested in 1926 that, ". . . in the distribution of state aid for schools, some provision should be made whereby financially poor districts may receive adequate funds to care properly for the educational needs of the children."¹¹

The Tax Revision Commission of 1929 also highlighted that, "The present system of distributing the assessed valuations of utility and mining property to the district in which such property is located results in concentrating the taxes on these properties in a few favored districts at the expense of the remainder of the state, every part of which contributes to the prosperity of these activities and to the benefits of government which they receive." They argued that, "The state as a whole has the responsibility of assuring its citizens, regardless of their residence, a certain equality of governmental service and of educational opportunity, and it is necessary in dealing with this problem to think in terms of the whole state rather than in terms of the small subdivisions which, after all, are but creatures of the state to be set up or cast down at will."

To offset this disparity and achieve more equality in resources among public schools, the commission proposed establishment of an equalization fund, which would be distributed to the school districts most in need. A constitutional change in 1930 created the proposed equalization fund.

During the first three and a half decades following statehood, the property tax generated the vast majority of revenue used for state and local government operations. But under the weight of the Great Depression, the property tax's destiny in Utah was about to dramatically change.

GREAT DEPRESSION ERA

During the Great Depression era, the Legislature enacted major changes that significantly altered the balance of the state's revenue system. Although ideas such as an expert State Tax Commission and a more balanced revenue system had been seriously discussed for several decades, the Great Depression provided the impetus for making major changes to the state's revenue and taxation

system. During this time period, the general structure of the state's modern revenue system was put in place.

State Tax Commission Created

A key constitutional change occurred in 1930, when the State Tax Commission replaced the old State Board of Equalization. The new Tax Commission was constitutionally charged with assessing mines and utilities and with equalizing assessment and taxation of other types of property among counties, in addition to other duties assigned by the Legislature.

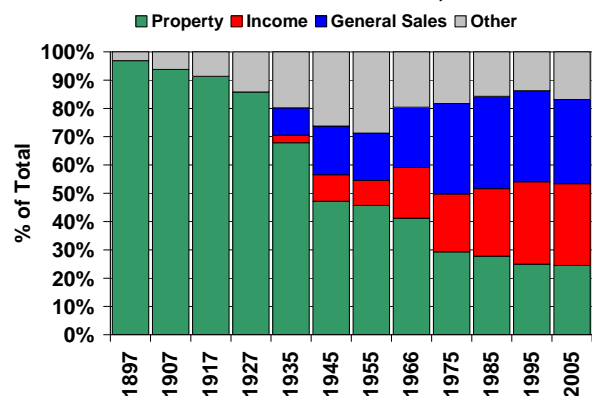
Prior to creation of the Tax Commission, nearly all properties had been assessed at far less than fair market value, contrary to law. Perhaps more importantly, property value assessments exhibited enormous variation from county to county, as no clear guidelines were in place and the election of local assessors provided a poor political incentive for accurate valuations.

Because significant responsibility for ensuring accurate property valuations shifted from local assessors to the Tax Commission, one of the Tax Commission's first tasks was to conduct a complete reappraisal of property throughout the state to improve the equity of the tax system. This process, which began in 1932, took more than a decade (until 1944) to complete. As a result of the long reappraisal period, the reappraisal process did not necessarily improve tax equity as had been anticipated; rather, it resulted in sizable shifts in tax burden every year as one area after another was reassessed during the cycle. Thus, from its very beginning in the 1930s, the Tax Commission has wrestled with ensuring accurate and equitable valuation of property.

Income and Sales Taxes Imposed

In the midst of the Depression's economic upheaval, significant numbers of property owners were unable to pay their property tax bill.¹² These defaults led to changes in the property tax, as well as the imposition of the income tax (1931) and sales tax (1933) to sustain government operations.

Figure 2
State & Local Government Revenues, 1897 to 2005



Source: Rasmussen (1996) and U.S. Census Bureau

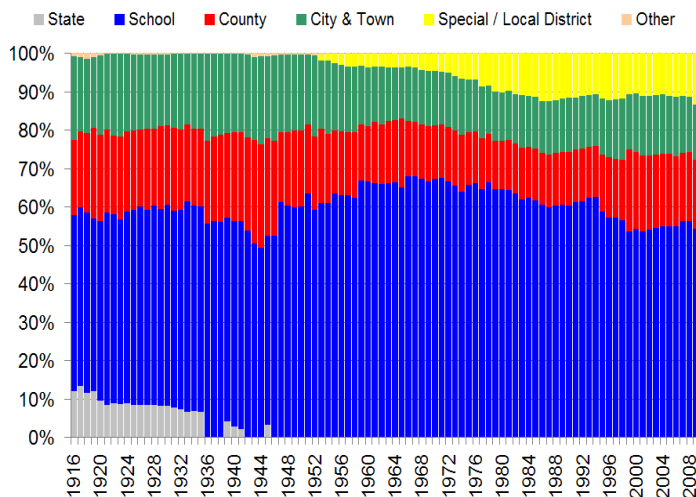
In 1930, the Constitution was amended to allow for the exemption of intangible property and prohibited a property tax on intangible property if that property was subject to an income tax. Concurrent with imposition of an income tax in 1931, the Legislature discontinued the property tax on intangible property, such as cash, stocks, and bonds. The 1930 constitutional amendment also earmarked 75 percent of any income tax revenues for public school funding, with the remaining 25 percent credited to the state General Fund.

The Depression-era changes to the property tax, along with imposition of income and sales taxes, led to a dramatic shift away from the property tax as a funding source – a shift that continues today, albeit at a much slower pace. Conversely, sales and income taxes have increased dramatically over the same time period.

As shown in Figure 2, since enactment of sales and income taxes in the early 1930s, the property tax in Utah has diminished in relative importance, most markedly decreasing in share in the 1930s, 1940s, and, to a lesser extent, the 1970s. Since the 1970s, the property tax has continued to decrease as a share of total revenues, although the decrease since the 1970s has been more gradual.

However, despite predictions of the property tax's complete demise, the property tax remains an important revenue source for local governments such as school districts, cities and towns, counties, local districts, and special service districts. Figure 3 shows the distribution of property taxes by purpose since 1916.

Figure 3
Property Taxes by Purpose*, 1916 to 2009



* Property taxes imposed by the state for local purposes, such as schools, are included under the local purpose

Source: Utah State Tax Commission & Utah Foundation

Property Tax Delinquencies

To deal with the problem of delinquent property taxes, in 1935 the Legislature enacted a bill allowing property owners to redeem property that had been taken for back taxes. If a property owner paid delinquent taxes for tax years 1928 through 1934, all tax penalties for those years would be waived and interest charges would be limited to two percent, provided that the full tax amounts, including all penalties and interest, were paid beginning in 1935. This redemption program was in place through 1937. In one year, this program reduced outstanding accumulated delinquencies by over 30 percent.¹³

In addition to the redemption program, in 1936 voters approved a constitutional amendment authorizing the Legislature to substantially increase the homestead exemption, from \$250 to \$2,000.¹⁴

POST WWII ERA

School Funding Reform

In the mid and late 1940s, the Legislature began to direct its focus to school funding. Up until this time, schools had been funded predominantly with property taxes, along with some supplemental funding from income taxes since 1931. However, even with the addition of income taxes as a school revenue source, as late as 1941 and 1942 property taxes still generated about 85 percent of school funding. School property tax yields had been very consistent, generating annual revenues in the range of \$9 million to \$11 million between 1920 and 1945.¹⁵

However, this education funding predictability began to change during the 1943 legislative session, when school officials requested additional funding and the Legislature appropriated a sizable amount (\$2.6 million) to schools from the state's General Fund. During the 1945 biennium, school officials requested even larger amounts and the Legislature appropriated \$4.6 million, out of the total \$12 million available in the state General Fund.

Tax Study Committee¹⁵

Because school funding was drawing rapidly increasing amounts from the state General Fund (in addition to school property taxes and the 75 percent allocation of income taxes), in 1945 the Legislature created a Tax Study Committee to study Utah's tax structure and recommend needed changes.

In its review, the committee found that a "change in the present method of financing schools was mandatory." The proposed solution was to amend the constitution to provide greater flexibility to the Legislature in funding schools, to "achieve greater equalization of educational opportunity to all of the children of the state and to

effect greater equality of tax support among the various taxing units of the state." This equalization was to be "accomplished largely through tax equalization, by using a statewide property tax for state aid to schools, so that all tangible property, no matter where located, will bear approximately the same tax load for school purposes."

Minimum School Program

Following the committee's efforts, the constitution was successfully amended. As part of the changes, the constitutional earmark of income taxes for public schools increased from 75 percent to 100 percent.

Following adoption of the constitutional amendments in 1946, major school funding changes came about in 1947 with the establishment of the minimum school program. Under this arrangement, the state paid 75 percent of the minimum school program's costs. Any portion of the state's 75 percent funding share that was not generated by income taxes would be generated with a uniform property tax levy imposed by the state. In addition to the state property tax levy, school districts were required to impose a uniform local levy at the rate that generated the remaining 25 percent share on a statewide basis. Thus, much of the school property tax burden was funded through a property tax levy that was equalized on a statewide basis, comprised of both a state and a local component. In addition to this tax equalization, expenditures were also equalized, as minimum school program funds were allocated on a similar basis statewide.

Although it was hoped that the increased state allocations and full income tax earmarking would reduce school property taxes, property taxes actually increased over the next several years. This was due to a number of factors, including large student population increases with the beginning of the post-WWII baby boom.

After having been nearly level for 25 years, school property taxes nearly tripled in six years, from about \$11 million in 1945 to nearly \$29 million in 1951. Income taxes provided about one half of the 75 percent state aid portion of the minimum school program, with the state-imposed property tax generating the difference. During this time period, property tax as a percentage of school funding decreased from about 85 percent in 1942 to about 65 percent in 1950, even though school property taxes did increase significantly during the time period.¹⁶

Property Assessment Changes

Property valuation practices were also addressed by the Legislature in this time period. The establishment of the minimum school program meant that an equitable valuation system was even more essential because now, more than ever, the entire state was tied together in funding schools. Uneven assessments in different areas

would inappropriately shift the tax burden among property owners throughout the state.

Through 1947, state law required assessment at fair market value, but this was not achieved in practice. Because the accuracy of property assessments diverged widely, in 1947 the Legislature attempted to achieve greater parity by changing statute from the standard of full fair market value to a standard of 40 percent of reasonable fair cash value. This was done in an attempt to move statute closer to actual assessment levels. Anticipating a decline in values following WWII to pre-war values, the Tax Commission, with legislative support, in 1947 began interpreting reasonable fair cash value as the value that a property had in 1940.

In 1953, the Legislature enacted a requirement for the Tax Commission to revalue each county's property at least once every five years, on a continuous county-by-county rotation basis. County assessors in Davis, Salt Lake, Utah, and Weber counties set values for residential buildings, while Tax Commission personnel recommended the values for other buildings and improvements in those counties. In the other counties, the Tax Commission recommended all assessed values for improvements. County assessors set land values based on standards and guidance provided by the Tax Commission. As required by the constitution, the Tax Commission itself set values for public utilities and mines. Property assessed values during this era were estimated at about 20 percent of actual market value, despite the statutorily required level of 40 percent.¹⁷

Rasmussen, in a comprehensive examination of the state and local tax system in Utah, strongly urged the state to remain deeply involved in the assessment process with "vigorous state assistance and supervision." In addition, he also highlighted that, "The extremely unequal distribution of taxable wealth in Utah will result in intolerable inequality in both local tax loads and educational programs." As a possible solution, he suggested an equalization program under which the tax revenues from mines, utilities, and manufacturing properties would be pooled and distributed on an equalized basis statewide.¹⁸

In 1961, in yet another attempt to align statute and administrative practice, the assessment standard of 40 percent of market value was changed to 30 percent of market value. However, this statutory change had minimal effect on actual assessment practices, as property continued to be valued at between 15 to 20 percent of actual property values. During this time period, the Tax Commission began to conduct sales ratio studies that measured both assessment levels and uniformity of assessments. Several major studies

conducted during the 1960s, including studies using the new sales ratio studies, confirmed that assessment procedures remained in need of serious change.

The main focus for improvement was on assessment uniformity, which still was very unequal between counties and between different types of property. One study indicated that, "It should be frankly stated that assessments of property are not equal at the present time."¹⁹ Another study concluded that, ". . . audit programs show a level of non-uniformity so serious that it may be termed critical. . . . The Constitution of the State of Utah states that the general property tax is to be uniformly administered so that all possessors of property pay a tax 'in proportion to the value of his, her, or its tangible property.' Sales ratio studies and audit programs indicate that at present Utah's general property tax could not meet that requirement."²⁰ Both studies recommended continued work by the Tax Commission and county assessors to improve assessment procedures and practices.

Tax studies emphasized again and again the reason why uniform assessments are essential to the proper functioning of the property tax system. "Lack of uniformity has serious consequences because assessed valuation is used by the state as a base for a number of important regulatory and equalization purposes, including limiting the taxing and borrowing powers of local governments, determining the amounts of exemptions for various groups, distribution of state school aid, and equalization of tax rates." In other words, "taxpayers residing in an underassessed county do not pay their proportionate share of the tax burden relative to the value of their property" and by so doing, increase the tax of those who already are paying their proportionate share.²¹

In response to the detailed property tax studies, yet another substantial program for improvement of assessments was enacted in 1969. This effort included training and certification requirements for assessment personnel, tax rate limitations, rate adjustments to offset valuation increases, and annual audits of 20 percent of personal property accounts. In addition, the Tax Commission was required to oversee assessment of real property on the five-year rotation basis.

During this same time period, constitutional exemptions were enacted or expanded for household furnishings (1958), disabled veterans (1962), property held for resale in other states (1964), and inventory held for resale within the state (1968). In addition, in 1968 Utah was one of the earliest states to adopt a provision allowing for assessment of farmland at its value for agricultural use rather than at its regular fair market value.

Due to growth in income tax revenues, the state portion of the school basic levy was reduced to zero in 1974. The state itself has not collected a property tax since this time. In another important development, in 1977 the "circuit breaker" program was enacted, providing property tax relief to low-income elderly households in the form of a tax abatement funded with state General Fund revenue.

Despite the statutory five-year requirement for revaluing property that had been enacted in 1969, it took until 1979 for the Tax Commission to complete this round of statewide reappraisal. Although it took longer than hoped for, the revaluation program reduced some of the assessment disparity that had previously existed among counties and among classes of property. However, these newly assessed values were about to lead to major controversy and spawn significant changes in the state's property tax system.

RECENT DECADES

In the midst of significant inflation and in the wake of California's Proposition 13, which imposed strict revenue limits along with an acquisition-value based property tax system, in the late 1970s and early 1980s Utah taxpayers were also agitated about property taxes. Consequently, the early 1980s were very tumultuous times for the property tax in Utah as the Legislature made all sorts of changes to the property tax system in attempts to respond to taxpayer unrest.

Among the legislative responses in 1980 were property tax homeowner and renter rebates, a reduction in the school basic levy, repeal of the requirement for reassessment every 5 years, further reduction of the statutory assessment level from 30 percent to 25 percent of fair market value, and a rollback of locally-assessed real property values to 1978 levels. In addition, a property's 1978 value was also set as the ongoing assessed value for future years.

In 1981, the Legislature made even more changes by reducing locally assessed property by an additional 20 percent for "intangibles" such as closing costs included in a property sale, further reducing the statutory assessment level from 25 percent to 20 percent of fair market value, further reducing the school basic levy, and imposing strict property tax revenue increase limitations.

In addition, in 1981 the Legislature also made a major property tax policy change when it abolished the statewide reappraisal program and returned the primary responsibility for most property assessment to county assessors. For the first 50 years since its creation, the Tax Commission had had significant involvement in the

assessment of all property statewide, including three massive statewide reassessment efforts lasting more than a decade each. Under the newly enacted changes, the bulk of the initial property valuation responsibility was now shifted to local assessors, who still remained subject to Tax Commission oversight. The Tax Commission continued to assess mines and utilities, as constitutionally required.

In 1982, the legal assessment level was reduced from 20 percent to 15 percent of fair market value for residential properties only and the 20 percent "intangibles" discount was repealed. In addition, another major policy change was enacted. The constitution was amended to increase the residential exemption from \$2,000 to up to 45 percent of the fair market value. Compared to a flat dollar-based exemption, a percentage exemption adjusts with home values and has the effect of providing a greater benefit to high-value properties compared to low-value properties. An increase in the residential property exemption would also shift more of the initial property tax burden to business property.

At this time, the constitution was also amended to authorize taxation of local government property located outside of the entity's boundaries and to expand or enact property tax exemptions for disabled veterans, charitable organizations, irrigation equipment, and livestock.

Supreme Court Involvement

A major turning point for property taxes in Utah occurred in 1984, in the form of a state Supreme Court decision. In *Rio Algom Corporation v. San Juan County*, the Court recognized that time is an essential element of a property's value and found that the Legislature violated the state constitution when it rolled back values to 1978 for locally assessed properties.

In response to this case, the Legislature enacted statutory changes that constitute the core of the property tax system in place today. In 1985, the Legislature repealed the 1978 rollback provisions and reenacted the 20 percent intangibles discount, which largely offset the tax impact of repealing the rollback provisions. The Legislature also significantly revamped property tax administration statutes. In 1985, full fair market value was re-established as the statutory assessment requirement. Counties that did not comply with state factoring orders could be subject to withholding of funds.

In making the change back to full fair market value, legislators apparently came to realize that fractional assessment did little to actually control property tax levels, but often led to wide variation in taxable values among counties and among classes of property. For

example, with an identical tax rate, a property valued at 30 percent of market value carries three times the tax burden of a property valued at 10 percent of value. Valuation differences such as these were very common in this time. Conversely, in a full market value system, even if a property were valued only at 80 percent of market value (also a 20 percentage point difference in valuation as in the earlier example), a property valued at 100 percent of market value carries a burden that is only 25 percent higher, rather than 200 percent higher.

Truth in Taxation Enacted

Another major development enacted in 1985 was the Tax Increase Disclosure Act, commonly known as the "truth in taxation" system. The basic concept of the system is that taxing entities may only budget the same amount of property tax each year, unless they have "new growth" (not just change in value on existing properties) or go through a very public process of notifying the public and holding a public hearing on the proposed revenue increase. To achieve this, as taxable values change, the tax rate automatically adjusts to provide a constant amount of revenue. When values increase, the tax rate adjusts down to provide the taxing entity the same amount of revenue as it received in the prior year. When values decrease, the tax rate adjusts up to provide the same amount of revenue.

In 1987, the Tax Commission issued factoring orders requiring assessment at fair market value, based on the findings of its sales ratio studies showing assessment levels among counties and classes of property. While doing little for the Tax Commission's popularity in underassessed locations, this effort improved tax equity, as properties statewide were valued more uniformly.

Additional Changes

In another major court case in 1990 (*Amax Magnesium Corporation v. Utah State Tax Commission*), the state Supreme Court found unconstitutional the statute providing a 20 percent "intangibles" discount to locally assessed property and not to centrally assessed property valued using the same method.

In response, in 1991 the Legislature reduced the intangibles discount to 5 percent and set the primary residential exemption at 29.75 percent of fair market value, for a net assessment value of about 67 percent of total fair market value. In addition, the school basic levy was reduced again and a 1.7 percent "fee-in-lieu" of property tax was created for personal property required to be registered with the state, such as automobiles, boats, and recreational vehicles.

Annual Valuations Required

In 1993, the Legislature enacted a highly important administrative requirement requiring assessors to

annually update property values for every parcel. Throughout the history of Utah's property tax, one of the major problems has been the time period between valuation updates. It was not uncommon for a full cycle of valuation updates to take between ten and fifteen years. As a result of this long time between value updates, when a property's turn in the valuation cycle arrived, the updated value created a major increase in tax owed. This cycle would then roll through to the next group of properties the next year. Thus, under this assessment practice, enormous tax changes in the year of revaluation were the norm.

The new law enacted in 1993 now required a value update every year based on a systemic review, with a property-specific revaluation every five years. This annual update was now possible because technological advances facilitated property sales trend tracking, which improved the ability of assessors to use a large amount of data to accurately value property using computer assisted mass appraisal systems. This annual valuation update requirement remains the law today. When properly administered, the annual valuation update procedure generally tends to reduce the enormous tax variability from one year to the next, improving the predictability of the property tax for property owners.

Residential Property Exemption Increased

At the beginning of the annual revaluation process in the mid-1990s, significant property revaluations were taking

place in various parts of the state where values had not been updated in several years and property values had increased significantly. When property values were actually updated, it created the predictable tax increase in that area and some very unhappy taxpayers. In response to this and other similar complaints, the primary residential exemption was increased to 32 percent in 1994 and then, in 1995, to the full 45 percent constitutionally allowed.

As Figure 4 shows, the property tax's constitutional base has consistently declined over time, through both major and minor changes, from a "general" property tax applying uniformly to nearly all property to a tax that exempts and classifies different types of property for different tax treatment. Although the constitutional provisions to this day include elements of the general property tax's basic principles of universality and uniformity of taxation, Utah's property tax has shifted away from a general tax on all property to a tax imposed on selected types of property – mainly real property and business personal property. In addition, taxable property is taxed differently, based on the type of property.

This move away from uniformity and universality in the property tax has undoubtedly simplified the tax system for both tax collectors and taxpayers. At the same time, one of the tradeoffs for this increased simplicity is the unequal application of the property tax to different kinds of property, which may distort economic decisions.

Figure 4
Constitutional Property Tax Exemption Changes Since Statehood, 1896 to 2006

1896	Original exemption for property of the United States, state, counties, cities, towns, school districts, municipal corporations, public libraries, lots with buildings used exclusively for religious worship or charitable purposes, places of burial, and ditches, canals, and flumes used exclusively for that purpose
1900	Exemption or abatement for indigent poor, irrigation exemption extended
1906	Mortgages exemption
1918	\$250 homestead exemption and \$100 personal property exemption
1930	Irrigation exemption expanded, \$3,000 disabled veteran exemption, livestock exemption, discretionary intangible property exemption – if property tax imposed on intangible property, taxed at a maximum rate of 5 mills and cannot be taxed under income tax; if property tax not imposed on intangible property, must be taxed under income tax
1936	Homestead exemption increased to \$2,000 and personal property exemption increased to \$300
1946	United States property automatic exemption repealed
1958	Discretionary exemption for all household furnishings replaces \$300 personal property exemption
1962	Disabled veteran exemption extended
1964	“Freeport” exemption for property held for resale out of state
1968	Inventory exemption for property held for resale with the state, agricultural land taxed may be taxed at value for agricultural use rather than fair market value
1982	45 percent residential exemption replaced \$2,000 homestead exemption, irrigation exemption restricted to irrigating land within the state, exclusive use irrigation exemption changed to proportional exemption, property owned by certain political subdivisions may be subject to property tax if located outside entity’s geographic boundaries, disabled veteran’s \$3,000 exemption limit removed, livestock exemption expanded
1984	Exemption for personal property registered within the state, if that property is subject to a uniform fee-in-lieu of property tax
1986	Farm equipment and machinery exemption
2006	Personal property that generates an inconsequential amount of revenue

Property Tax Reductions

The school basic levy was cut significantly in 1995 and again in 1996. In addition, the truth in taxation process was also applied to the basic levy at this time, in effect reducing the tax rate over time but providing a consistent amount of revenue. Over the years, the property tax component of the minimum school program has been continuously reduced as the Legislature used the state, then the local, basic school levy as a means to achieve statewide property tax reductions. Unlike the initial program in 1947, which was largely funded with property taxes, the minimum school program is now largely funded with income taxes. Moreover, the remaining local portion of the equalized basic levy makes up only about 20 percent of school property taxes, whereas in earlier decades it had been as high as about 70 percent of school property taxes. So over this time period, non-equalized school property tax levies have grown in importance, meaning that more and more of school property taxes are not equalized.

Another sizable property tax reduction took place in 1998, when counties were authorized to impose a 0.25 percent sales tax if they reduced their property tax by the amount generated by the sales tax increase. Of the 29 counties, 25 initially imposed the sales tax, resulting in a sizable statewide property tax cut. In addition, property tax relief programs such as the circuit breaker and disabled veterans exemption were expanded and the fee-in-lieu property tax was changed to an age-based fee-in-lieu. A more recent administrative change to the property tax occurred when in 2006 voters approved a constitutional amendment authorizing the Legislature to exempt personal property that generates an inconsequential amount of revenue. In effect, this allows the exemption of business personal property when the costs of administration may exceed the tax generated.

FUTURE OF PROPERTY TAX

In recent years, the property tax has been subject to intense scrutiny and debate for a variety of reasons. As has been the case throughout much of the history of the Utah property tax, inadequate assessment practices over time in some areas created understandable uproar when properties were brought up to market value after long periods of undervaluation. Other factors such as rapidly increasing then decreasing residential property values and tax increases by local governments led to significant concerns. In addition, the state's largest school district was separated into two school districts, highlighting the disparities in property tax resources among school districts in the state.

Only time will tell what the future holds for the property tax in Utah. As with any tax, the property tax has its strengths and weaknesses. As policymakers examine

Utah's property tax system, they may wish to consider both the advantages and disadvantages of the tax. Figure 5 provides a brief summary of selected advantages and disadvantages of the property tax.

Because the tax is so visible, proponents point to the transparency and political accountability of the tax as key features. They argue that use of the property tax tends to limit growth in government expenditures, that the property tax is a comparatively stable tax, and that the property tax provides local governments with some degree of fiscal autonomy. Opponents of the property tax point to various administrative shortcomings, such as valuation discrepancies, and the fact that in some cases ownership of property may not correspond with current ability to pay. They also highlight that the truth in taxation system tends to hold taxing entities harmless, even in difficult economic times, that the tax tends to generate more public angst than other taxes, and that values are not evenly distributed among taxing entities.

In conclusion, the property tax in Utah has changed over time from the only major source of tax revenue for the state and local governments, to a smaller but still significant local government revenue source today. In addition, today's property tax system classifies different types of property and treats those classes differently. Recurring issues in Utah's property tax history include the challenges of accurate property valuation and the distribution of property resources among taxing entities, such as school districts. An understanding of Utah's property tax history can provide policymakers with meaningful perspective and insights as they deliberate on Utah's property tax system and on overall methods of financing state and local government in Utah.

- 1 This briefing paper draws heavily on the following:
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- 12 Utah State Planning Board. "The General Property Tax in Utah." Salt Lake City, 1938.
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- 18 Rasmussen, Jewell. "Achieving More Equity and Uniformity in Property Tax Assessment in Utah." Salt Lake City, 1966.
- 19 Property Assessments Advisory Committee. "Property Assessments - A Report of the Property Assessments Advisory Committee to the Taxation Standing Committee." Salt Lake City, 1960.
- 20 Sorenson, J. Leon. "Property Tax Equalization in Utah." Salt Lake City, 1968.
- 21 Rasmussen (1966)

Figure 5
Selected Advantages and Disadvantages of Utah's Property Tax System

Feature	Description	Advantages	Disadvantages
Calculation of taxable value and tax amount	<ul style="list-style-type: none"> • Unlike sales and income taxes, which are calculated by the vendor or taxpayer, the property tax value and tax amounts are calculated by a government entity 	<ul style="list-style-type: none"> • Much of the administrative burden falls on government rather than on the taxpayer (like income tax) or businesses (like income tax withholding and sales tax) 	<ul style="list-style-type: none"> • Taxpayers are less aware of the process and rationale for taxable value determination and become involved late in the process • No economic transaction on each property – valuation is an estimate based on other property sales or general economic data • Assessment uniformity means some values high and some low compared to actual value • Poor incentive structure for local elected assessors
Truth in taxation provides taxing entities a fixed revenue amount	<ul style="list-style-type: none"> • Under the truth in taxation process, taxing entities are essentially guaranteed a certain amount of property tax revenue every year 	<ul style="list-style-type: none"> • Taxing entities can reliably budget for a certain amount of property tax revenue every year • Further stabilizes an already comparatively stable revenue source 	<ul style="list-style-type: none"> • Taxpayers pay annually, regardless of economic circumstances • Purchasing power of a fixed dollar amount generally declines over time due to inflation
Property taxes imposed hard to evade and avoid	<ul style="list-style-type: none"> • Unlike many other taxes, property taxes—especially property taxes on real property—are hard to avoid and are imposed as a lien on the property itself 	<ul style="list-style-type: none"> • Because of the lien on the property, property taxes (especially on real property) are typically eventually paid • Most real property is essentially immobile, meaning the underlying economic base is less responsive and making the underlying economic base somewhat less volatile 	<ul style="list-style-type: none"> • Unlike real property, personal property can be relatively mobile, potentially leading to different tax treatment of real property and personal property
Very visible to taxpayers	<ul style="list-style-type: none"> • Property taxes come due as an annual bill, which makes them highly visible 	<ul style="list-style-type: none"> • High visibility leads to political accountability – elected officials are only willing to increase property taxes when they believe it is absolutely necessary 	<ul style="list-style-type: none"> • High visibility leads to policymakers looking for alternative revenue sources, each with their own advantages and disadvantages • Extreme taxpayer unrest can undermine the political legitimacy of the tax
Tax on asset wealth	<ul style="list-style-type: none"> • Assets are one indication of ability to pay 	<ul style="list-style-type: none"> • In general, accumulation of assets likely has some relationship with ability to pay when examined on a lifetime basis 	<ul style="list-style-type: none"> • May not perfectly correspond with current economic ability to pay • Property ownership and property value increases do not necessarily create cash flow (tax on unrealized capital gains) • Only taxes certain types of asset wealth, and this taxable property is not taxed uniformly
Local government revenue source	<ul style="list-style-type: none"> • Property tax provides significant funding to local governments 	<ul style="list-style-type: none"> • Autonomous local revenue source • Local elected officials are politically responsible for their taxing and spending decisions • Value of both tax and public services may be capitalized into the property's value • Many municipal-type services are closely related to property (water, sewer, transportation access) 	<ul style="list-style-type: none"> • Property tax resources vary widely, creating disparity among taxing entities such as school districts • Local tax and expenditure decisions may vary from Legislature's tax and expenditure preferences