# Tax History

## Overview

Until the Great Depression, the property tax was the major source of revenue for Utah state and local governments. In 1931, revenue shortfalls were so dramatic the Legislature enacted the individual income and corporate franchise taxes. At the time, the taxes were designed to generate revenue from individuals and corporations that could afford the additional burden. In 1933, because of persistent revenue shortfalls, the Legislature enacted the state sales tax. The effect of the Depression era tax reform was to broaden and stabilize the tax base creating what is called the "three legged stool": property, income, and sales taxes. In 1959 the sales tax was expanded to city and county governments. Currently, the state relies primarily on the income and sales tax, while local government relies primarily on property tax, and to a lesser extent sales tax.

## Tax Structure for State and Local Governments

A balanced tax system is often compared to a stool with three legs. Each leg represents a different tax and all three legs are equal in that each tax raises roughly the same amount of revenue. Just as a three-legged stool gives more strength and stability than a one- or two-legged stool, tax experts believe a balanced tax system provides strength and stability to a state's revenue and gives the state the best chance of meeting many important goals. Among those goals is to provide adequate revenue, a fair and proportional distribution of the cost of providing public goods and services, moderate and stable levels of taxation, and an equilibrium between the growth of tax revenues and a taxpayer's income.

States that can export their taxes to nonresidents are in a position to ignore this revenue diversification principle. Nevada, with its gaming industry, and Wyoming, with its large natural resource base, are examples of states without a diverse tax base. Incidentally, neither state imposes an individual income tax.

The three taxes represented by the legs are sales and use taxes, property taxes, and taxes based on income. These three types of taxes raised more than $6.0 billion in revenue in Utah in fiscal year 2005. The largest amount of revenue comes from sales and use taxes at (37%), followed by the individual income tax (32%), and property tax (31%). These three tax types generate the major sources of revenue for state and local governments in Utah and the same is true for most other states as well.

## Changes in Major State and Local Revenues

During the period from 1982 to the present, revenues from state and local sales and use taxes and individual income taxes grew significantly. Property tax revenues grew more slowly because the legislature cut property tax rates imposed by school districts and exempted a larger portion of the value of primary residences from the property tax. The imposition of "truth in taxation" laws have also correlated with slower growth in property tax revenues. Probably one of the most remarkable aspects of the revenue growth during the 1990s was the strong growth of the individual income tax, due primarily to the state's fast-growing economy.

Property Tax. The first general tax imposed on the value of all real and tangible personal property ("ad valorem tax") within the boundaries of Utah, dates back to 1878 (prior to Utah's statehood in 1896). Historically, the property tax was the principal revenue source for funding state and local governments. For example, in 1890, revenues generated by the property tax represented 97% of total state and local government revenues. Over time, state and local government reliance on the property tax has declined significantly, to 23% of all state and local taxes for fiscal year 2002. However, because the property tax is less sensitive to changes in the business cycle, it remains a stable source of revenue for funding public education and local governments.

Utah's property tax is established in the Utah Constitution, and was ratified with the constitution in 1896. Since its adoption, numerous constitutional amendments have authorized exemptions and special treatment of property by the legislature. Significantly, in 2002, voters approved a constitutional amendment to substantially reorganize, clarify, and simplify Article XIII, Revenue and Taxation, of the Utah Constitution. This change became effective January 1, 2003.[1]

Throughout the history of the property tax in Utah, there have been several recurring issues that have challenged state and local governments, the courts, tax administrators, and taxpayers. These issues include the establishment and equalization of property values within and among counties and among types of property, limiting growth in property taxes, ensuring public disclosure when property taxes are increased, and providing property tax relief.

Sales and Use Tax. Sales taxes were first introduced as a revenue source in 1933 when property tax collections dropped dramatically because of the Great Depression. At that time, most state and local government functions were funded by the property tax, and high delinquency rates during the Great Depression placed tremendous pressure on the property tax. The use tax was added in 1937 to complement the sales tax. A person is subject to a use tax, which is administered in the same manner as a sales tax, if for a transaction involving tangible personal property the seller did not collect the tax and the purchaser stores, uses, or consumes the tangible personal property within the state. Since the enactment of the state sales and use taxes, the transactions that are subject to these taxes, as well as the tax rates and exemptions, have been amended many times. In addition, portions of the revenues generated by state sales and use taxes have been designated by statute for particular uses, or "earmarked," in increasing frequency.

The first local option sales and use tax was enacted in 1959. At the time this local option tax was enacted, the tax was distributed to local governments on the basis of point of sale, which is where the sale occurred. In 1982, the Utah Constitution was amended to allow revenue sharing among political subdivisions, and in 1983 the local option sales and use tax was further amended to establish a distribution point of sale component and a population component. This local option sales and use tax still retains point of sale and population distribution components.

Since the first local option sales and use tax was enacted in 1959, numerous local option sales and use taxes have been enacted. Currently, there are at least eighteen statutory authorizations that impose local option sales and use tax under Utah's Sales and Use Tax Act. These sales and use taxes vary in their distribution, and a number of them are earmarked for particular purposes.

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[1] Note that except for a change in the membership of county boards of equalization, the constitutional amendment was not intended to change the substance of the Revenue and Taxation Article.

Another significant source of legislative changes in the structure of state and local sales and use taxes is the state's involvement with the Streamlined Sales Tax Project (SST), a multi-state effort to simplify and modernize sales and use tax laws. One of the objectives of SST is to facilitate the collection of sales and use taxes by sellers that do not have a physical presence in a state ("non-nexus sellers"). Although the U.S. Supreme Court has concluded that a seller without sufficient presence in a state may not be required to collect sales and use taxes on behalf of that state, the Court has recognized Congress' power to change federal law to require such collections. Until Congress acts, states encourage the voluntary collection of sales and use taxes by non-nexus sellers by making complex sales and use tax laws more uniform to ease compliance burdens.

In 1999, the legislature enacted legislation to authorize the State Tax Commission to enter into negotiations with other states to develop uniform sales and use tax procedures and study ways to simplify the administration of the sales and use tax. Between 2000 and 2005, legislation was enacted to appoint delegates to the Streamlined Sales Tax Implementing States, develop uniform sales and use tax procedures, and simplify and modernize administration of the sales and use tax. To date, a significant portion of Utah sales and use tax law complies with the requirements established to participate in SST. Other laws, the enactment of which is necessary to be in substantial compliance with the requirements for participation in SST, are scheduled to take effect on July 1, 2006.

### Taxes on Income

Individual Income Tax. Utah's individual income tax was enacted in 1931, when economic conditions during the Great Depression resulted in a need for revenues. The income tax provided a way to impose taxes on individuals who had a means to pay the taxes.

Since its inception, this tax has been subject to numerous changes. For example, in 1957, the first withholding tax was enacted that applied only to nonresident employees. The withholding tax was expanded to include both resident and nonresident employees in 1959. One of the most significant changes to the income tax rate structure occurred in 1973 when as part of a major overhaul of the individual income tax, separate tax rate structures were enacted for single individuals, married individuals filing joint tax returns, and married individuals filing separate returns. Prior to 1973, one tax rate structure applied to all taxpayers. In addition, in 1973, the individual income tax became more closely linked to the federal individual income tax system.

Corporate Franchise and Income Tax. Utah's corporate franchise tax was also enacted in 1931. In 1959, the corporate income tax was enacted as means of taxing corporations engaged in interstate commerce that were not previously subject to the corporate franchise tax but had income derived from Utah sources.

The state corporate franchise and income tax structure has been subject to changes in tax rates, the minimum tax, deductions, exemptions, and the application of the tax to corporations with foreign interests. Significant changes were made to these taxes in the early 1990s, when they were modernized, simplified, and brought into closer conformance with federal income tax provisions.

Gross Receipts Taxes.[2] The gross receipts tax is imposed on nonprofit corporations, other than religious and charitable institutions, that would otherwise not be required to pay corporate franchise and income taxes, was enacted by the legislature in 1980. Electrical corporations that received a property tax reduction authorized in 1995 by the legislature were subjected to a gross receipts tax in that same year.

### Other Taxes

Throughout Utah's history, a number of miscellaneous taxes have been enacted to supplement state and local revenues. Examples of these miscellaneous taxes are:

- Insurance premium tax, enacted in 1896
- Inheritance tax, enacted in 1901
- Mining severance tax, enacted in 1917[3]
- Motor fuel tax, enacted in 1923
- Cigarette tax, enacted in 1923
- Beer tax, enacted in 1933
- Special fuel tax, enacted in 1941
- Wine and liquor tax, enacted in 1943
- Aviation fuel tax, enacted in 1951
- Oil and gas severance tax, enacted in 1955
- Privilege tax, enacted in 1959
- Tobacco products tax, enacted in 1963
- Municipal energy sales and use tax, enacted in 1996
- Brine shrimp royalty, enacted in 1997
- Radioactive waste facility tax, enacted in 2001
- Municipal telecommunications license tax, enacted in 2003
- Hazardous waste facility and nonhazardous solid waste facility tax, enacted in 2003
- Multi-channel video or audio service tax, enacted in 2004
- Sexually explicit business and escort service tax, enacted in 2004

### Conclusion

Utah's state and local elected officials continually seek to balance the need for public services with available revenues. A viable and stable tax system must continually adjust to changes in the economy. Policymakers will need to continue to improve and refine Utah's tax system so that it remains a fair and reliable way to generate revenues for essential public purposes.

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[2] Other taxes, such as the taxes under the Radioactive Waste Facility Tax Act imposed by Utah Code Annotated, Title 59, Chapter 24, Radioactive Waste Facility Tax Act, are computed on the basis of gross receipts. However, for purposes of this chapter, these other taxes are addressed below under the discussion on "Other Taxes."

[3] A mining occupation tax was effective for 1917 and 1918. In 1919, this tax was repealed and the property tax base increased to three times the net proceeds for metalliferous mines, the value of improvements, and ground at $5 per acre. Nonmetallic mines and minerals were subject to property tax assessment at their full value. In 1937, a mining occupation tax was enacted. Utah Foundation, Financing Government in Utah, 135; Rasmussen, History of Utah's First Century of Taxation and Public Debt, 20, 40-41.

## Works Cited

Jewell J. Rasmussen, History of Utah's First Century of Taxation and Public Debt 1896 - 1995 (Utah: University of Utah, 1996), 11-12.
Utah Foundation, Financing Government in Utah (Utah: Utah Foundation, 2000).

Governor Olene S. Walker, Recommendations on a Tax Structure for Utah's Future (Salt Lake City, November 2004), 2; Note that the state does not currently impose a general property tax for state purposes.

Utah Constitutional Revision Commission, Report of the Utah Constitutional Revision Commission 1994 (Utah: Legislative Printing, 1994).

Olene S. Walker, Utah Voter Information Pamphlet: General Election November 5, 2002 (Utah: State Elections Office, 2002), 26-31.

Utah Code Annotated, sec. 59-12-107 (2004 & Supp. 2005).

Utah Code Annotated, sec. 59-12-205 (2004 & Supp. 2005).

Utah Code Annotated, Title 59, Chapter 12, Sales and Use Tax Act.

See Quill Corp. v. North Dakota, 504 U.S. 298 (1992).

1999 Utah Laws ch. 191; 2000 Utah Laws ch. 253; 2001 Utah Laws ch. 104; 2003 Utah Laws ch. 312; 2004 Utah Laws ch. 255; 2005 Utah Laws ch. 158; 2005 Utah Laws ch. 232.

Licensing and Sale of Cigarettes, 1923 Utah Laws ch. 52.

Legislation imposing a severance tax on oil and gas production was passed by the Legislature in 1955 with an effective date of January 1, 1956.

Municipal Energy Sales and Use Tax Act, 1996 Utah Laws ch. 280.

Brine Shrimp Royalty Act, 1997 Utah Laws ch. 179.

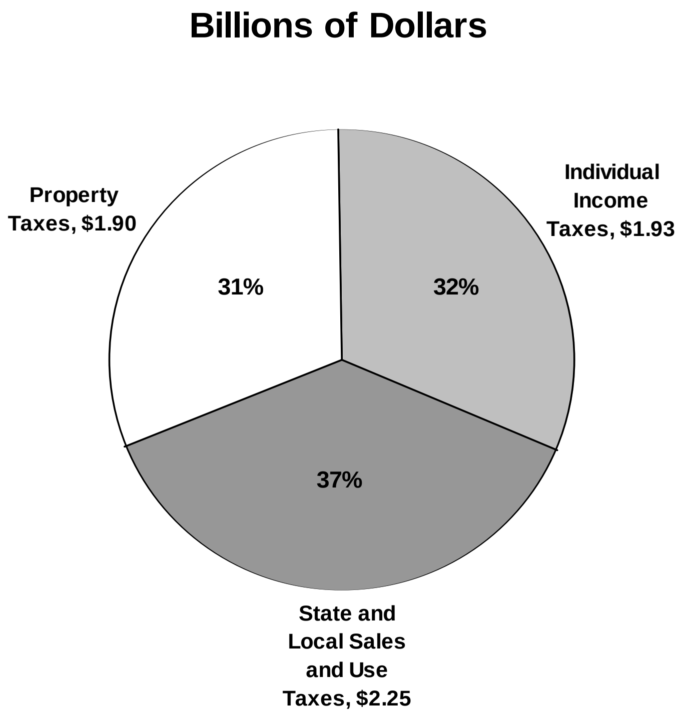
Radioactive Waste Tax Act, 2001 Utah Laws ch. 314.

State and Local Taxes, Fees, and Charges Related to Telecommunications, 2003 Utah Laws ch. 253.

Waste Tax and Fee Amendments, 2003 Utah Laws ch. 295.

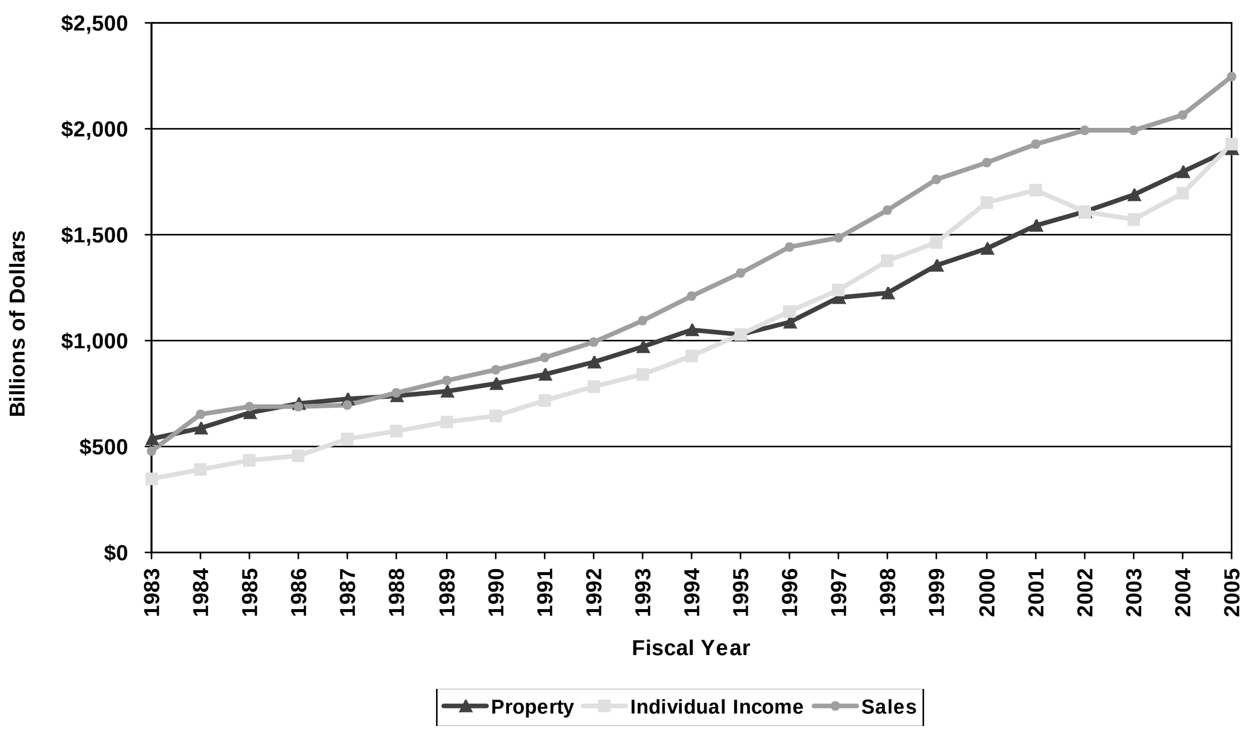
Multi-Channel Video or Audio Service Tax Act, 2004 Utah Laws ch. 300.

Figure 75
Utah's Three Major Taxes: Fiscal Year 2005




Source: Utah State Tax Commission

Figure 76
Revenue from Utah's Three Major Taxes: Fiscal Years 1983 to 2005




Source: Utah State Tax Commission