



Utah Association of REALTORS®

UPDATE on 3/8/2019:

Legislative leaders announced Thursday, March 7th that they will delay their tax reform efforts until a special session this spring. After hearing concerns about House Bill 441, lawmakers have decided to take more time to study the issue and the options for stabilizing and modernizing Utah's tax system.

Thank you for all your valuable feedback and input on this bill. The Utah Association of Realtors® has listened to your concerns and has asked the Legislature to take more time to study this complex issue. Going into the special session, the UAR will continue working on a better resolution as we advocate for you and your clients.

Throughout the tax reform discussions, the UAR has worked with legislative leaders to find solutions to Utah's funding problems while protecting Realtors®, private property rights and homeownership. We applaud the Legislature's efforts to take on the very challenging task of modernizing the state's tax code. We also appreciate the time they've taken to listen to our ideas and concerns.

We look forward to being part of a solution in the coming months that will support homeownership and secure Utah's economic prosperity for the future.

ORIGINAL MESSAGE on 3/4/2019:

On Friday, the House Revenue and Taxation Committee passed House Bill 441, the Tax Equalization and Reduction Act, which now heads to the full House of Representatives. Over many months, the Utah Association of REALTORS® has been advocating for private property rights, affordable housing, and small business during the tax reform discussions. Since the start of the legislative session in January, the UAR's government affairs team has worked on this bill every day around the clock. The following information provides important background and updates about the bill.

Why tax reform?

Utah's tax structure is made up of three sources: income tax, sales tax, and property tax. Income tax funds education while property tax funds school districts, local government, and special service districts. The state portion of sales tax funds state government operations (i.e., the General Fund).

Even though Utah is experiencing a surplus in income tax, the money cannot be used for the General Fund because the Utah Constitution requires income taxes to be used only for education.

Meanwhile, sales tax collections are declining. In 1985, 51 percent of a household's expenditures were taxable. In 2015, that had shrunk to 41 percent.

The Governor's Office of Planning and Budget (GOPB) is seeing severe imbalances in Utah's tax structure. While the state's economy is growing at record rates, General Fund revenue has declined by comparison. As Utah's sales tax base erodes, the state is finding it increasingly difficult to fund basic government services. Without changes to correct this imbalance now, the state General Fund, which is currently in the red, will continue to decline each subsequent year.

Lawmakers are proposing House Bill 441 as a way to restructure this imbalance and make needed changes before the problem becomes even more severe. Their goal is to lower the tax rate and broaden the base to reflect Utah's changing economic structure. While there are differences of opinion on how to tackle this problem, we commend the bill sponsor and the Legislature for undertaking this Herculean task for the betterment of the state of Utah.

Why does House Bill 441 include a transfer tax?

The current version of the bill imposes a sales tax on most of the services that Utahns use. It also eliminates many of the sales tax exemptions previously found in Utah law. The drafters of the bill felt it was important that every sector of the economy contribute to the tax reform efforts.

To address real estate, the bill includes a nominal transfer tax. It would be assessed at a rate of 0.00075 of the value of the property being sold. For the median-priced home of \$300,000, it would equate to a \$225 tax. Similarly, medical services will be receiving a 1 percent health insurance premium tax.

What is the UAR's position on House Bill 441?

While the Utah Association of REALTORS® generally opposes transfer taxes, the bill in its current form is much better than the alternative proposals. The alternative proposals sought a sales tax on real estate commissions and mortgage lending in addition to a staggering transfer tax of 2 percent.

These proposals would be devastating for both our members and for those trying to buy and sell homes. These alternatives would kill deals because buyers would have to come up with more cash at closing.

We did not propose the transfer tax, but the bill's drafters felt this was the best way to include the real estate industry in the tax plan. They looked to find a way to include every economic sector in the tax burden without being devastating to any one industry or profession. The current bill is a win for housing compared to the alternatives, which some are still advocating.

Why is a transfer tax better than a sales tax on services?

1. For real estate, a small transfer tax is better than a sales tax on services because the \$225 on a median-priced home could be included on the Closing Disclosure and financed.
2. It would be expensive and complicated for REALTORS® to collect and remit a sales tax on services. In contrast, the transfer tax format ensures REALTORS® won't have to choose between 1) extra costs and burdens to collect and remit the tax or 2) paying the tax themselves, thereby resulting in double taxation.
3. A small transfer tax will be spread more broadly among the tax base because it will also include those who don't use REALTORS® to buy and sell their properties.
4. A transfer tax will treat all brokerage models fairly and equally, rather than providing certain models with a competitive advantage.

What is UAR doing to protect against runaway transfer taxes?

While some may not love the current proposal, it's significantly better than the alternative approaches in the long run. Nevertheless, this plan is not final, and the UAR continues to advocate for the best possible outcome for members, buyers, and sellers.

Our biggest fear is that local government entities will see a transfer tax as an unlimited source of revenue. We are currently fighting to:

1. Prohibit the imposition of all local government transfer taxes
2. Prohibit increases in the state transfer tax rate
3. Prohibit mandatory disclosure of the sales price

What can we expect moving forward?

This bill has ramifications in every profession, industry, and economic sector, making it incredibly complex. There is a chance this bill won't pass. There is a chance the bill will pass but in a modified form. There is a chance the bill will pass but will be revisited during the next legislative session before implementation in April 2020. There is a chance the Legislature will pivot and pursue an entirely different tax strategy to deal with the current funding problems.

We are doing everything we can to protect you and your clients as we advocate for private property rights, homeownership, and affordable housing. The state is facing a General Fund crisis, and it's important that lawmakers find ways to correct the funding imbalances to preserve our quality of life as Utah continues to grow. The worst-case scenario for buyers and sellers would be for the Legislature to do nothing.

We will continue to keep you informed as there are new developments.

Sincerely,

Christy Vail – President
Utah Association of REALTORS®