

1 **TAX CREDIT AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4

5 **LONG TITLE**

6 **General Description:**

7 This bill amends provisions related to tax credits.

8 **Highlighted Provisions:**

9 This bill:

- 10 ▶ repeals a provision that prohibits a person from carrying forward a tax credit if the
11 State Tax Commission is required to remove the tax credit from a tax return;
- 12 ▶ exempts corporate and individual historic preservation tax credits from provisions
13 requiring the State Tax Commission to remove the tax credits from a tax return
14 under certain circumstances; and
- 15 ▶ makes technical and conforming changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 This bill provides retrospective operation.

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **59-7-903**, as last amended by Laws of Utah 2015, Chapter 41

23 **59-10-1002.1**, as last amended by Laws of Utah 2015, Chapters 30 and 41

24

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

26 Section 1. Section **59-7-903** is amended to read:

27 **59-7-903. Removal of tax credit from tax return -- Prohibition on claiming a tax**
28 **credit -- Commission publishing requirements.**

29 (1) Subject to Subsection (2) and except as provided in Subsection (3), the commission
30 shall remove a tax credit from a tax return and a person filing a tax return may not claim [~~or~~
31 ~~carry forward~~] the tax credit if:

- 32 (a) the total amount of tax credit claimed or carried forward by all persons who file a

33 tax return is less than \$10,000 per taxable year for three consecutive taxable years; and

34 (b) less than 10 persons per year for the three consecutive taxable years described in
35 Subsection (1)(a) file a tax return claiming or carrying forward the tax credit.

36 (2) If the commission determines the requirements of Subsection (1) are met, the
37 commission shall remove a tax credit from a tax return and a person filing a tax return may not
38 claim [~~or carry forward~~] the tax credit beginning two taxable years after the January 1
39 immediately following the date the commission determines the requirements of Subsection (1)
40 are met.

41 (3) This section does not apply to a tax credit under Section 59-7-609.

42 [~~(3)~~] (4) The commission shall, on or before the November interim meeting of the year
43 after the taxable year in which the commission determines the requirements of Subsection (1)
44 are met, report to the Revenue and Taxation Interim Committee that, in accordance with this
45 section:

46 (a) the commission is required to remove a tax credit from a return on which the tax
47 credit appears; and

48 (b) a person filing a tax return may not claim [~~or carry forward~~] the tax credit.

49 [~~(4)~~] (5) (a) Within a 30-day period after making the report required by Subsection
50 [~~(3)~~] (4), the commission shall publish a list in accordance with Subsection [~~(4)~~] (5)(b) stating
51 each tax credit that the commission will remove from a return on which the tax credit appears.

52 (b) The list shall:

53 (i) be published on:

54 (A) the commission's website; and

55 (B) the public legal notice website in accordance with Section 45-1-101;

56 (ii) include a statement that:

57 (A) the commission is required to remove the tax credit from each return on which the
58 tax credit appears; and

59 (B) the tax credit may not be claimed [~~or carried forward~~] on a return;

60 (iii) state the taxable year for which the removal described in Subsection [~~(4)~~] (5)(a)
61 takes effect; and

62 (iv) remain available for viewing and searching until the commission publishes a new
63 list in accordance with this Subsection [~~(4)~~] (5).

64 Section 2. Section **59-10-1002.1** is amended to read:

65 **59-10-1002.1. Removal of tax credit from tax return and prohibition on claiming**
66 **a tax credit -- Conditions for removal and prohibition on claiming a tax credit --**
67 **Commission publishing requirements.**

68 (1) As used in this section, "tax return" means a tax return filed in accordance with this
69 chapter.

70 (2) Except as provided in Subsection (4), beginning two taxable years after the
71 requirements of Subsection (3) are met:

72 (a) the commission shall remove a tax credit allowed under this part from each tax
73 return on which the tax credit appears; and

74 (b) a claimant, estate, or trust filing a tax return may not claim [~~or carry forward~~] the
75 tax credit.

76 (3) Except as provided in Subsection (4), the commission shall remove a tax credit
77 allowed under this part from a tax return and a claimant, estate, or trust filing a tax return may
78 not claim [~~or carry forward~~] the tax credit as provided in Subsection (2) if:

79 (a) the total amount of the tax credit claimed or carried forward by all claimants,
80 estates, or trusts filing tax returns is less than \$10,000 per year for three consecutive taxable
81 years beginning on or after January 1, 2002; and

82 (b) less than 10 claimants, estates, and trusts per year for the three consecutive taxable
83 years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax
84 credit.

85 (4) This section does not apply to a tax credit under Section 59-10-1006 or 59-10-1027.

86 (5) The commission shall, on or before the November interim meeting of the year after
87 the taxable year in which the requirements of Subsection (3) are met, report to the Revenue and
88 Taxation Interim Committee that in accordance with this section:

89 (a) the commission is required to remove a tax credit from each tax return on which the
90 tax credit appears; and

91 (b) a claimant, estate, or trust filing a tax return may not claim [~~or carry forward~~] the
92 tax credit.

93 (6) (a) Within a 30-day period after making the report required by Subsection (5), the
94 commission shall publish a list in accordance with Subsection (6)(b) stating each tax credit that

95 the commission will remove from a return on which the tax credit appears.

96 (b) The list shall:

97 (i) be published on:

98 (A) the commission's website; and

99 (B) the public legal notice website in accordance with Section 45-1-101;

100 (ii) include a statement that:

101 (A) the commission is required to remove the tax credit from each return on which the
102 tax credit appears; and

103 (B) the tax credit may not be claimed [~~or carried forward~~] on a return;

104 (iii) state the taxable year for which the removal described in Subsection (6)(a) takes
105 effect; and

106 (iv) remain available for viewing and searching until the commission publishes a new
107 list in accordance with this Subsection (6).

108 Section 3. **Retrospective operation.**

109 This bill has retrospective operation for a taxable year beginning on or after January 1,

110 2016.