59-1-101. Definitions.

As used in this title:

(1) "Commission" and "tax commission" mean the State Tax Commission.

(2) "Deficiency" is as defined in Section 59-1-1402.

Amended by Chapter 212, 2009 General Session

59-1-201. Composition of commission -- Terms -- Removal from office -- Appointment.

(1) The commission shall be composed of four members appointed by the governor with the consent of the Senate.

(2) Subject to Subsection (3), the term of office of each commissioner shall be for four years and expire on June 30 of the year the term ends.

(3) The governor shall stagger a term described in Subsection (2) so that the term of one commissioner expires each year.

(4) A commissioner shall hold office until a successor is appointed and qualified.

(5) (a) The governor may remove a commissioner from office for neglect of duty, inefficiency, or malfeasance, after notice and a hearing.

(b) If the governor removes a commissioner from office and appoints another person to replace the commissioner, the person the governor appoints to replace the commissioner:

(i) shall serve for the remainder of the unexpired term; and

(ii) may be reappointed as the governor determines.

(6) (a) Before appointing a commissioner, the governor shall request a list of names of potential appointees from:

(i) the Utah State Bar;

(ii) one or more organizations that represent certified public accountants who are licensed to practice in the state;

(iii) one or more organizations that represent persons who assess or appraise property in the state; and

(iv) one or more national organizations that:

(A) offer a professional certification in the areas of property tax, sales and use tax, and state income tax;

(B) require experience, education, and testing to obtain the certification; and

(C) require additional education to maintain the certification.

(b) In appointing a commissioner, the governor shall consider:

(i) to the extent names of potential appointees are submitted, the names of potential appointees submitted in accordance with Subsection (6)(a); and

(ii) any other potential appointee of the governor's own choosing.

Amended by Chapter 370, 2014 General Session

59-1-202. Qualifications of members of commission.

(1) Each member of the commission:

(a) shall have significant tax experience that is relevant to holding office as a commissioner;

(b) shall have knowledge of tax administration or tax compliance;

(c) shall have executive and administrative experience; and

(d) except for one member who has substantial knowledge and expertise in the theory and practice of ad valorem taxation as described in Subsection (2)(a), shall have substantial knowledge and experience in one or more of the following:

(i) the theory and practice of excise taxation;

(ii) the theory and practice of income taxation;

(iii) the theory and practice of sales and use taxation; and

(iv) the theory and practice of corporate taxation.

(2) (a) At least one member of the commission shall have substantial knowledge and experience in the theory and practice of ad valorem taxation.

(b) At least one member of the commission shall have substantial knowledge and experience in the theory and practice of accounting.

(3) The membership of the commission shall represent composite skills in accounting, auditing, property assessment, management, law, and finance.

Amended by Chapter 370, 2014 General Session

59-1-203. Conflicts of interest -- Salaries -- Ethics.

(1) No person appointed as a member of the commission may hold any other office under the laws of this state, the government of the United States, or any other state. Each member shall devote full time to the duties of the office and may not hold any other position of trust or profit under the Constitution nor engage in any other occupation that would create a direct conflict with the duties of a commissioner.

(2) The salaries of the commissioners shall be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation. Commissioners shall also be allowed expenses as provided by law.

(3) No commissioner, executive director, or consultant shall engage in political or charitable fund raising activities. Commissioners and commission employees are governed by Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Amended by Chapter 114, 1991 General Session

59-1-204. Oath of office.

(1) Before entering upon the duties of office, a member of the commission shall qualify by taking the constitutional oath of office.

(2) The oath described in Subsection (1) shall be recorded and filed.

Amended by Chapter 356, 2010 General Session

59-1-205. Chairman -- Quorum -- Voting -- Sessions.

(1) The governor shall designate one of the members of the commission as chairperson.

(2) (a) Three members of the commission constitute a quorum for the transaction of business.

(b) A quorum of the commission must participate in any order that constitutes a final agency action on:

(i) a formal adjudicative proceeding over which the commission has jurisdiction;

(ii) an informal adjudicative proceeding over which the commission has jurisdiction; or

(iii) an initial hearing conducted pursuant to Section 59-1-502.5.

(c) If a commission vote results in a tie vote on any matter described in Subsection (2)(b), the position of the taxpayer is considered to have prevailed.

(3) The commission shall be in session and open for the transaction of business during ordinary business hours each day.

(4) The commission may hold sessions or conduct investigations at any place in the state to facilitate the performance of its duties.

Amended by Chapter 80, 2003 General Session

59-1-206. Appointment of staff -- Executive director -- Compensation -- Administrative secretary -- Internal audit unit -- Appeals office staff -- Division directors -- Criminal tax investigators.

(1) The commission shall appoint the following persons who are qualified, knowledgeable, and experienced in matters relating to their respective positions, exempt under Title 67, Chapter 19, Utah State Personnel Management Act, to serve at the pleasure of, and who are directly accountable to, the commission:

(a) in consultation with the governor and with the consent of the Senate, an executive director;

(b) an administrative secretary;

(c) an internal audit unit; and

(d) an appeals staff.

(2) The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(3) Division directors shall be appointed by the executive director subject to the approval of the commission. The division directors are exempt employees under Title 67, Chapter 19, Utah State Personnel Management Act.

(4) (a) The executive director may with the approval of the commission employ additional staff necessary to perform the duties and responsibilities of the commission. These employees are subject to Title 67, Chapter 19, Utah State Personnel Management Act.

(b) (i) The executive director may under Subsection (4)(a) employ criminal tax investigators to help the commission carry out its duties and responsibilities regarding criminal provisions of the state tax laws. The executive director may not employ more than eight criminal tax investigators at one time.

(ii) The executive director may designate investigators hired under this Subsection (4)(b) as special function officers, as defined in Section 53-13-105, to enforce the criminal provisions of the state tax laws.

(iii) Notwithstanding Section 49-15-201, any special function officer designated under this Subsection (4)(b) may not become or be designated as a member of the Public Safety Retirement Systems.

(5) The internal audit unit shall provide the following:

(a) an examination to determine the honesty and integrity of fiscal affairs, the accuracy and reliability of financial statements and reports, and the adequacy and effectiveness of financial controls to properly record and safeguard the acquisition, custody, and use of public funds;

(b) an examination to determine whether commission administrators have faithfully adhered to commission policies and legislative intent;

(c) an examination to determine whether the operations of the divisions and other units of the commission have been conducted in an efficient and effective manner;

(d) an examination to determine whether the programs administered by the divisions and other units of the commission have been effective in accomplishing intended objectives; and

(e) an examination to determine whether management control and information systems are adequate and effective in assuring that commission programs are administered faithfully, efficiently, and effectively.

(6) The appeals office shall receive and hear appeals to the commission and shall conduct the hearings in compliance with formal written rules approved by the commission. The commission has final review authority over the appeals.

Amended by Chapter 131, 2003 General Session

59-1-207. Administration plan -- Executive director's functions.

The commission shall prepare and implement a plan for the administration of the divisions and other offices of the commission which do not report directly to the commission. The plan shall, by rule, establish the duties and responsibilities to be delegated to the executive director.

Enacted by Chapter 4, 1987 General Session

59-1-208. Offices.

The main office of the commission shall be located in Salt Lake City. The commission may establish branch offices necessary for the convenience of the public and the efficient performance of its duties.

Enacted by Chapter 4, 1987 General Session

59-1-209. Official seal -- Authenticated copies of records as evidence.

The commission shall adopt an official seal, and shall file an impression and description of the seal with the Division of Archives. Copies of any records in the possession of the commission may be authenticated with the seal of the commission attested by the signature of the commission's administrative secretary, and when so

authenticated shall be received in evidence to the same extent and with the same effect as the originals.

Enacted by Chapter 4, 1987 General Session

59-1-210. General powers and duties.

The powers and duties of the commission are as follows:

(1) to sue and be sued in its own name;

(2) to adopt rules and policies consistent with the Constitution and laws of this state to govern the commission, executive director, division directors, and commission employees in the performance of their duties;

(3) to adopt rules and policies consistent with the Constitution and laws of the state, to govern county boards and officers in the performance of any duty relating to assessment, equalization, and collection of taxes;

(4) to prescribe the use of forms relating to the assessment of property for state or local taxation, the equalization of those assessments, the reporting of property or income for state or local taxation purposes, or for the computation of those taxes and the reporting of any information, statistics, or data required by the commission;

(5) to administer and supervise the tax laws of the state;

(6) to prepare and maintain from year to year a complete record of all lands subject to taxation in this state, and all machinery used in mining and all property or surface improvements upon or appurtenant to mines or mining claims;

(7) to exercise general supervision over assessors and county boards of equalization including the authority to enforce Section 59-2-303.1, and over other county officers in the performance of their duties relating to the assessment of property and collection of taxes, so that all assessments of property are just and equal, according to fair market value, and that the tax burden is distributed without favor or discrimination;

(8) to reconvene any county board of equalization which, when reconvened, may only address business approved by the commission and extend the time for which any county board of equalization may sit for the equalization of assessments;

(9) to confer with, advise, and direct county treasurers, assessors, and other county officers in matters relating to the assessment and equalization of property for taxation and the collection of taxes;

(10) to provide for and hold annually at such time and place as may be convenient a district or state convention of county assessors, auditors, and other county officers to consider and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative to taxation and methods of assessment, to which county assessors and other officers called to attend shall attend at county expense;

(11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the penalties, liabilities, and punishments of public officers, persons, and officers or agents of corporations for failure or neglect to comply with the statutes governing the reporting, assessment, and taxation of property;

(12) to cause complaints to be made in the proper court seeking removal from

office of assessors, auditors, members of county boards, and other assessing, taxing, or disbursing officers, who are guilty of official misconduct or neglect of duty;

(13) to require county attorneys to immediately institute and prosecute actions and proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the laws relating to the assessment and taxation of property in their respective counties;

(14) to require any person to furnish any information required by the commission to ascertain the value and the relative burden borne by all kinds of property in the state, and to require from all state and local officers any information necessary for the proper discharge of the duties of the commission;

(15) to examine all records relating to the valuation of property of any person;

(16) to subpoena witnesses to appear and give testimony and produce records relating to any matter before the commission;

(17) to cause depositions of witnesses to be taken as in civil actions at the request of the commission or any party to any matter or proceeding before the commission;

(18) to authorize any member or employee of the commission to administer oaths and affirmations in any matter or proceeding relating to the exercise of the powers and duties of the commission;

(19) to visit periodically each county of the state, to investigate and direct the work and methods of local assessors and other officials in the assessment, equalization, and taxation of property, and to ascertain whether the law requiring the assessment of all property not exempt from taxation, and the collection of taxes, have been properly administered and enforced;

(20) to carefully examine all cases where evasion or violation of the laws for assessment and taxation of property is alleged, to ascertain whether existing laws are defective or improperly administered;

(21) to furnish to the governor from time to time such assistance and information as the governor requires;

(22) to transmit to the governor and to each member of the Legislature recommendations as to legislation which will correct or eliminate defects in the operation of the tax laws and will equalize the burden of taxation within the state;

(23) to correct any error in any assessment made by it at any time before the tax is due and report the correction to the county auditor, who shall enter the corrected assessment upon the assessment roll;

(24) to compile and publish statistics relating to taxation in the state and prepare and submit an annual budget to the governor for inclusion in the state budget to be submitted to the Legislature;

(25) to perform any further duties imposed by law, and exercise all powers necessary in the performance of its duties;

(26) to adopt a schedule of fees assessed for services provided by the commission, unless otherwise provided by statute. The fee shall be reasonable and fair, and shall reflect the cost of services provided. Each fee established in this manner shall be submitted to and approved by the Legislature as part of the commission's annual appropriations request. The commission may not charge or collect any fee

proposed in this manner without approval by the Legislature;

(27) to comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings; and

(28) to distribute the money deposited into the Rural Health Care Facilities Account as required by Section 26-9-4.

Amended by Chapter 278, 2010 General Session

59-1-211. Uniform system of accounts.

(1) The commission shall establish a uniform system of accounts and when established it shall be followed by all taxing entities within the state.

(2) The commission may make rules directly relating to the administration of a uniform system of accounts and shall periodically publish these rules and distribute them to all taxing entities.

(3) The commission shall certify a list of all taxing entities that do not comply with the laws and rules pertaining to uniform accounts to the county attorney of the county in which the entity is located. The county attorney shall immediately notify the official or officials charged by law with complying with them. If the official or officials fail to so comply within 60 days after receipt of the notice, the county attorney shall commence proceedings in district court in mandamus to require performance.

Amended by Chapter 3, 1988 General Session

59-1-213. Annual report on Internal Revenue Code changes.

The commission shall annually report to the Revenue and Taxation Interim Committee on or before the October interim meeting concerning the impacts of the reliance of this title on the Internal Revenue Code, including:

(1) any modification to the Internal Revenue Code that is likely to have a fiscal impact on state revenues:

(a) that became effective:

(i) if the commission is preparing its initial report in accordance with this section, during the previous calendar year; or

(ii) if the commission has prepared a previous report in accordance with this section, after the most recent report prepared in accordance with this section; or

(b) that have been enacted and will become effective prior to the end of the calendar year that begins January 1 following the current report prepared in accordance with this section;

(2) the fiscal impacts a modification described in Subsection (1) may have on state revenues; and

(3) statutory or administrative options to:

(a) implement the effects on this title of a modification described in Subsection (1); or

(b) change this title to prevent this title from implementing a modification described in Subsection (1).

Enacted by Chapter 176, 2004 General Session

59-1-301. Payment under protest -- Action to recover.

In all cases of levy of taxes, licenses, or other demands for public revenue which is deemed unlawful by the party whose property is taxed, or from whom the tax or license is demanded or enforced, that party may pay under protest the tax or license, or any part deemed unlawful, to the officers designated and authorized by law to collect the tax or license; and then the party so paying or a legal representative may bring an action in the tax division of the appropriate district court against the officer to whom the tax or license was paid, or against the state, county, municipality, or other taxing entity on whose behalf it was collected, to recover the tax or license or any portion of the tax or license paid under protest.

Enacted by Chapter 3, 1988 General Session

59-1-302. Penalty for nonpayment of certain taxes -- Jeopardy proceedings.

(1) This section applies to the following:

(a) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(b) a tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(c) a tax under Chapter 10, Part 4, Withholding of Tax;

(d) a tax under Chapter 12, Sales and Use Tax Act;

(e) a tax under Chapter 13, Part 2, Motor Fuel;

(f) a tax under Chapter 13, Part 3, Special Fuel; and

(g) a tax under Chapter 13, Part 4, Aviation Fuel.

(2) (a) A person required to collect, truthfully account for, and pay over a tax listed in Subsection (1) who willfully fails to collect the tax, fails to truthfully account for and pay over the tax, or attempts in any manner to evade or defeat the tax or the payment of the tax, is liable for a penalty equal to the total amount of the tax evaded, not collected, not accounted for, or not paid over.

(b) The penalty described in Subsection (2)(a) is in addition to other penalties provided by law.

(3) (a) If the commission determines in accordance with Subsection (2) that a person is liable for the penalty, the commission shall mail a notice of the proposed penalty to the person.

(b) The notice of proposed penalty shall:

(i) set forth the basis of the assessment; and

(ii) be mailed:

(A) in accordance with Section 59-1-1404; and

(B) to the person's last-known address.

(4) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(a) pay the amount of the proposed penalty at the place and time stated in the

notice; or

(b) proceed in accordance with the review procedures of Subsection (5).

(5) A person against whom a penalty is proposed in accordance with Subsections (2) and (3) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(6) If the commission determines that the collection of the penalty is in jeopardy, this section does not prevent the immediate collection of the penalty in accordance with the procedures and requirements for an emergency proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

(7) (a) In a hearing before the commission and in a judicial review of the hearing, the commission and the court shall consider any inference and evidence that a person has willfully failed to collect, truthfully account for, or pay over a tax listed in Subsection (1).

(b) It is prima facie evidence that a person has willfully failed to collect, truthfully account for, or pay over a tax listed in Subsection (1) if the commission or a court finds that the person charged with the responsibility of collecting, accounting for, or paying over the taxes:

(i) made a voluntary, conscious, and intentional decision to prefer other creditors over the state government or utilize the tax money for personal purposes;

(ii) recklessly disregarded obvious or known risks that resulted in the failure to collect, truthfully account for, or pay over the tax; or

(iii) failed to investigate or to correct mismanagement, having notice that the tax was not or is not being collected, accounted for, or paid over as provided by law.

(c) The commission or court is not required to find a bad motive or specific intent to defraud the government or deprive the government of revenue to establish willfulness under this section.

(d) If the commission determines that a person is liable for the penalty under Subsection (2), the commission shall assess the penalty and give notice and demand for payment in accordance with Section 59-1-1411.

Amended by Chapter 212, 2009 General Session

59-1-303. Authorization for commission to apply overpayment of any tax or fee against taxpayer's liability for any tax or fee.

(1) For purposes of this section:

(a) "Overpayment" means an amount equal to the sum of:

(i) the amount by which a tax or fee a taxpayer paid exceeds the taxpayer's liability for the tax or fee; and

(ii) interest accruing to the amount described in Subsection (1)(a)(i).

(b) "Tax or fee" means any tax or fee administered by the commission.

(2) The commission may apply an overpayment of any tax or fee against a taxpayer's liability for any tax or fee.

(3) If the commission applies an overpayment of a tax or fee against a taxpayer's liability for a tax or fee, the commission shall notify the taxpayer in writing.

Enacted by Chapter 183, 1999 General Session

59-1-304. Definition -- Limitations on maintaining a class action that relates to a tax or fee -- Requirements for a person to be included as a member of a class in a class action -- Rulemaking authority -- Commission report to Revenue and Taxation Interim Committee -- Limitations on recovery by members of a class -- Severability.

(1) As used in this section, "tax or fee" means a tax or fee administered by the commission.

(2) A class action that relates to a tax or fee may not be maintained in any court if a claim sought by a representative party seeking to maintain the class action arises as a result of:

(a) a person collecting a tax or fee from the representative party if the representative party is not required by law to pay the tax or fee; or

(b) any of the following that requires a change in the manner in which a tax or fee is required to be collected or paid:

(i) an administrative rule made by the commission;

(ii) a private letter ruling issued by the commission; or

(iii) a decision issued by:

(A) the commission; or

(B) a court of competent jurisdiction.

(3) (a) A person may be included as a member of a class in a class action relating to a tax or fee only if the person:

(i) exhausts all administrative remedies with the commission; and

(ii) requests in writing to be included as a member of the class.

(b) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to simplify and expedite the administrative remedies a person shall exhaust as required by Subsection (3)(a).

(ii) The rules required by Subsection (3)(b)(i) may include rules providing for:

(A) expedited filing procedures and forms;

(B) consolidation of hearings procedures as may be reasonably needed to accommodate potential inclusion of similarly situated persons; and

(C) the designation of test or sample cases to avoid multiple hearings.

(iii) The commission shall report to the Revenue and Taxation Interim Committee on the status of the rules required by this Subsection (3)(b) on or before the October 2004 interim meeting.

(4) Subject to Subsection (5), in a class action brought under this section against the state or its political subdivisions in which members of the class are awarded a refund or credit of a tax or fee by a court of competent jurisdiction, the total amount that may be recovered by members of the class may not exceed the difference between:

(a) the sum of:

(i) the amount of the refund or credit awarded to members of the class; and

(ii) interest as provided in Section 59-1-402; and

(b) if awarded in accordance with Subsection (5), the sum of:

(i) reasonable costs; and
(ii) reasonable attorney fees.
(5) (a) For purposes of Subsection (4), at the discretion of the court, the court may award:
(i) reasonable costs as determined by the court; and
(ii) reasonable attorney fees determined under Subsection (5)(b).
(b) Reasonable attorney fees awarded in a class action may not exceed a reasonable hourly rate for work actually performed:
(i) as determined by the court; and
(ii) taking into account all facts and circumstances that the court considers reasonable.
(6) If any provision of this section, or the application of any provision of this section to any person or circumstance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of the section shall be given effect without the invalid provision or application.

Amended by Chapter 382, 2008 General Session

59-1-305. Convenience fee to cover the costs of electronic payments.
(1) As used in this section:
(a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.
(b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.
(2) The commission may collect a convenience electronic payment fee established in accordance with the procedures and requirements of Section 63J-1-504 to cover the costs of electronic payments of taxes and fees administered by the commission.
(3) Notwithstanding any other provisions of this title, the commission shall use a fee imposed under this section as a dedicated credit to cover the costs of electronic payments.

Amended by Chapter 183, 2009 General Session

59-1-306. Definition -- State Tax Commission Administrative Charge Account -- Amount of administrative charge -- Deposit of revenues into the restricted account -- Interest deposited into General Fund -- Expenditure of money deposited into the restricted account.
(1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge the commission administers under:
(a) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;
(b) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
(c) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
(d) Section 19-6-714;

(e) Section 19-6-805;
(f) Section 59-27-105;
(g) Section 69-2-5;
(h) Section 69-2-5.5; or
(i) Section 69-2-5.6.
(2) There is created a restricted account within the General Fund known as the "State Tax Commission Administrative Charge Account."
(3) Subject to the other provisions of this section, the restricted account shall consist of administrative charges the commission retains and deposits in accordance with this section.
(4) For purposes of this section, the administrative charge is a percentage of revenues the commission collects from each qualifying tax, fee, or charge of not to exceed the lesser of:
(a) 1.5%; or
(b) an equal percentage of revenues the commission collects from each qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the qualifying taxes, fees, or charges.
(5) The commission shall deposit an administrative charge into the restricted account.
(6) Interest earned on the restricted account shall be deposited into the General Fund.
(7) The commission shall expend money appropriated by the Legislature to the commission from the restricted account to administer qualifying taxes, fees, or charges.

Enacted by Chapter 309, 2011 General Session

59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.
(1) As used in this section:
(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the commission:
(i) has implemented the commission's GenTax system; and
(ii) at least 30 days before implementing the commission's GenTax system as described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website stating:
(A) the date the commission will implement the GenTax system with respect to the tax, fee, or charge; and
(B) that, at the time the commission implements the GenTax system with respect to the tax, fee, or charge:
(I) a person that files a return after the due date as described in Subsection (2)(a) is subject to the penalty described in Subsection (2)(c)(ii); and
(II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is subject to the penalty described in Subsection (3)(b)(ii).
(b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or

charge, the later of:

(i) the date on which the commission implements the commission's GenTax system with respect to the tax, fee, or charge; or

(ii) 30 days after the date the commission provides the notice described in Subsection (1)(a)(ii) with respect to the tax, fee, or charge.

(c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

(II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 32B-2-304;

(VIII) Section 34A-2-202;

(IX) Section 40-6-14;

(X) Section 69-2-5;

(XI) Section 69-2-5.5; or

(XII) Section 69-2-5.6; or

(B) another amount that by statute is subject to a penalty imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act; or

(E) Chapter 4, Privilege Tax.

(d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated tax, fee, or charge.

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated tax, fee, or charge:

(A) $20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the return described in Subsection (2)(b) is filed with respect to an

activated tax, fee, or charge, beginning on the activation date for the tax, fee, or charge:

(A) $20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in Subsection (2)(a).

(d) This Subsection (2) does not apply to:

(i) an amended return; or

(ii) a return with no tax due.

(3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

(i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;

(ii) the person:

(A) is subject to a penalty under Subsection (2)(b); and

(B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);

(iii) (A) the person is subject to a penalty under Subsection (2)(b); and

(B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

(I) does not file a petition for redetermination or a request for agency action; and

(II) fails to pay the tax, fee, or charge due on a return;

(v) (A) the commission:

(I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or

(II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed request for agency action; and

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

(i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an unactivated tax, fee, or charge:

(A) $20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an activated tax, fee, or charge, beginning on the activation date:

(A) $20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection

59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) $20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) $20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time.

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of $500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of $500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice; or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this

Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (d); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8) The penalty for failure to file an information return, information report, or a

complete supporting schedule is $50 for each information return, information report, or supporting schedule up to a maximum of $1,000.

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is $500.

(10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

(i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:

(A) a return;

(B) an affidavit;

(C) a claim; or

(D) a document similar to Subsections (11)(a)(i)(A) through (C);

(ii) knows or has reason to believe that the document described in Subsection (11)(a)(i) will be used in connection with any material matter administered by the commission; and

(iii) knows that the document described in Subsection (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge.

(b) The following acts apply to Subsection (11)(a)(i):

(i) preparing any portion of a document described in Subsection (11)(a)(i);

(ii) presenting any portion of a document described in Subsection (11)(a)(i);

(iii) procuring any portion of a document described in Subsection (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).

(c) For purposes of Subsection (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is $500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:

(A) be less than $500; or

(B) exceed $1,000.

(c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

(A) be less than $1,000; or

(B) exceed $5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

(A) be less than $1,500; or

(B) exceed $25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

(I) a return;

(II) an affidavit;

(III) a claim; or

(IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document

described in Subsection (12)(e)(i)(A):

(I) is false or fraudulent as to any material matter; and

(II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

(A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

(B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

(C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

(D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A); or

(G) counseling in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A).

(iii) This Subsection (12)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (12)(e)(i)(A) is prepared or presented:

(I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

(II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

(A) be less than $1,500; or

(B) exceed $25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).

(f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:

(i) from the date the tax should have been remitted; or

(ii) after the day on which the person commits the criminal offense.

(13) Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

Amended by Chapter 52, 2014 General Session

59-1-402. Definitions -- Interest.

(1) As used in this section:

(a) "Final judicial decision" means a final ruling by a court of this state or the

United States for which the time for any further review or proceeding has expired.

(b) "Retroactive application of a judicial decision" means the application of a final judicial decision that:

(i) invalidates a state or federal taxation statute; and

(ii) requires the state to provide a refund for an overpayment that was made:

(A) prior to the final judicial decision; or

(B) during the 180-day period after the final judicial decision.

(c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

(II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 32B-2-304;

(VIII) Section 34A-2-202;

(IX) Section 40-6-14;

(X) Section 69-2-5;

(XI) Section 69-2-5.5; or

(XII) Section 69-2-5.6; or

(B) another amount that by statute is subject to interest imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act;

(E) Chapter 4, Privilege Tax; or

(F) Chapter 13, Part 5, Interstate Agreements.

(2) Except as otherwise provided for by law, the interest rate for a calendar year for a tax, fee, or charge administered by the commission shall be calculated based on the federal short-term rate determined by the Secretary of the Treasury under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter.

(3) The interest rate calculation shall be as follows:

(a) except as provided in Subsection (7), in the case of an overpayment or refund, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate; or

(b) in the case of an underpayment, deficiency, or delinquency, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate.

(4) Notwithstanding Subsection (2) or (3), the interest rate applicable to certain installment sales for purposes of a tax under Chapter 7, Corporate Franchise and Income Taxes, shall be determined in accordance with Section 453A, Internal Revenue Code, as provided in Section 59-7-112.

(5) (a) Except as provided in Subsection (5)(c), interest may not be allowed on an overpayment of a tax, fee, or charge if the overpayment of the tax, fee, or charge is refunded within:

(i) 45 days after the last date prescribed for filing the return with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, if the return is filed electronically; or

(ii) 90 days after the last date prescribed for filing the return:

(A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or

(B) if the return is not filed electronically.

(b) Except as provided in Subsection (5)(c), if the return is filed after the last date prescribed for filing the return, interest may not be allowed on the overpayment if the overpayment is refunded within:

(i) 45 days after the date the return is filed:

(A) with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; and

(B) if the return is filed electronically; or

(ii) 90 days after the date the return is filed:

(A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or

(B) if the return is not filed electronically.

(c) (i) In the case of an amended return, interest on an overpayment shall be allowed:

(A) for a time period:

(I) that begins on the later of:

(Aa) the date the original return was filed; or

(Bb) the due date for filing the original return not including any extensions for filing the original return; and

(II) that ends on the date the commission receives the amended return; and

(B) if the commission does not make a refund of an overpayment under this Subsection (5)(c):

(I) if the amended return is with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, and is filed electronically, within a 45-day period after the date the commission receives the amended return, for a time period:

(Aa) that begins 46 days after the commission receives the amended return; and

(Bb) subject to Subsection (5)(c)(ii), that ends on the date that the commission completes processing the refund of the overpayment; or

(II) if the amended return is with respect to a tax, fee, or charge except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, or is not filed electronically, within a 90-day period after the date the commission receives the amended return, for a time period:

(Aa) that begins 91 days after the commission receives the amended return; and

(Bb) subject to Subsection (5)(c)(ii), that ends on the date that the commission completes processing the refund of the overpayment.

(ii) For purposes of Subsection (5)(c)(i)(B)(I)(Bb) or (5)(c)(i)(B)(II)(Bb), interest shall be calculated forward from the preparation date of the refund document to allow for processing.

(6) Interest on any underpayment, deficiency, or delinquency of a tax, fee, or charge shall be computed from the time the original return is due, excluding any filing or payment extensions, to the date the payment is received.

(7) Interest on a refund relating to a tax, fee, or charge may not be paid on any overpayment that arises from a statute that is determined to be invalid under state or federal law or declared unconstitutional under the constitution of the United States or Utah if the basis for the refund is the retroactive application of a judicial decision upholding the claim of unconstitutionality or the invalidation of a statute.

Amended by Chapter 357, 2012 General Session

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the

state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the director of the Division of Solid and Hazardous Waste, as defined in Section 19-6-102, as requested by the director of the Division of Solid and Hazardous Waste, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers,

distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Management and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and Social Security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) Notwithstanding Subsection (1), the commission shall at the request of a committee, commission, or task force of the Legislature provide to the committee, commission, or task force of the Legislature any information relating to a tax imposed under Chapter 9, Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

(o) (i) As used in this Subsection (3)(o), "office" means the:

(A) Office of the Legislative Fiscal Analyst; or

(B) Office of Legislative Research and General Counsel.

(ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(o)(iii), the commission shall at the request of an office provide to the office all information:

(A) gained by the commission; and

(B) required to be attached to or included in returns filed with the commission.

(iii) (A) An office may not request and the commission may not provide to an office a person's:

(I) address;

(II) name;

(III) Social Security number; or

(IV) taxpayer identification number.

(B) The commission shall in all instances protect the privacy of a person as required by Subsection (3)(o)(iii)(A).

(iv) An office may provide information received from the commission in accordance with this Subsection (3)(o) only:

(A) as:

(I) a fiscal estimate;

(II) fiscal note information; or

(III) statistical information; and

(B) if the information is classified to prevent the identification of a particular return.

(v) (A) A person may not request information from an office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if that office received the information from the commission in accordance with this Subsection (3)(o).

(B) An office may not provide to a person that requests information in accordance with Subsection (3)(o)(v)(A) any information other than the information the office provides in accordance with Subsection (3)(o)(iv).

(p) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(p)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(q) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah 911 Committee the information requested by the Utah 911 Committee under Subsection 63H-7-303(4).

(s) Notwithstanding Subsection (1), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's

contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(t) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(u) Notwithstanding Subsection (1), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(4) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any person who violates this section is guilty of a class A misdemeanor.

(b) If the person described in Subsection (5)(a) is an officer or employee of the state, the person shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in accordance with Subsection (3)(o)(iii) or a person that requests information in accordance with Subsection (3)(o)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (5)(b); or

(B) disqualification from holding public office in accordance with Subsection (5)(b).

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Amended by Chapter 320, 2014 General Session

59-1-404. Definitions -- Confidentiality of commercial information obtained from a property taxpayer or derived from the commercial information -- Rulemaking authority -- Exceptions -- Written explanation -- Signature requirements -- Retention of signed explanation by employer -- Penalty.

(1) As used in this section:

(a) "Appraiser" means an individual who holds an appraiser's certificate or license issued by the Division of Real Estate under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act and includes an individual associated with an appraiser who assists the appraiser in preparing an appraisal.

(b) "Appraisal" is as defined in Section 61-2g-102.

(c) (i) "Commercial information" means:

(A) information of a commercial nature obtained from a property taxpayer regarding the property taxpayer's property; or

(B) information derived from the information described in this Subsection (1)(c)(i).

(ii) (A) "Commercial information" does not include information regarding a property taxpayer's property if the information is intended for public use.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(c)(ii)(A), the commission may by rule prescribe the circumstances under which information is intended for public use.

(d) "Consultation service" is as defined in Section 61-2g-102.

(e) "Locally assessed property" means property that is assessed by a county assessor in accordance with Chapter 2, Part 3, County Assessment.

(f) "Property taxpayer" means a person that:

(i) is a property owner; or

(ii) has in effect a contract with a property owner to:

(A) make filings on behalf of the property owner;

(B) process appeals on behalf of the property owner; or

(C) pay a tax under Chapter 2, Property Tax Act, on the property owner's property.

(g) "Property taxpayer's property" means property with respect to which a property taxpayer:

(i) owns the property;

(ii) makes filings relating to the property;

(iii) processes appeals relating to the property; or

(iv) pays a tax under Chapter 2, Property Tax Act, on the property.

(h) "Protected commercial information" means commercial information that:

(i) identifies a specific property taxpayer; or

(ii) would reasonably lead to the identity of a specific property taxpayer.

(2) An individual listed under Subsection 59-1-403(1)(a) may not disclose commercial information:

(a) obtained in the course of performing any duty that the individual listed under Subsection 59-1-403(1)(a) performs under Chapter 2, Property Tax Act; or

(b) relating to an action or proceeding:

(i) with respect to a tax imposed on property in accordance with Chapter 2, Property Tax Act; and

(ii) that is filed in accordance with:

(A) this chapter;

(B) Chapter 2, Property Tax Act; or

(C) this chapter and Chapter 2, Property Tax Act.

(3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(b), an individual listed under Subsection 59-1-403(1)(a) may disclose the following information:

(i) the assessed value of property;

(ii) the tax rate imposed on property;

(iii) a legal description of property;

(iv) the physical description or characteristics of property, including a street address or parcel number for the property;
(v) the square footage or acreage of property;
(vi) the square footage of improvements on property;
(vii) the name of a property taxpayer;
(viii) the mailing address of a property taxpayer;
(ix) the amount of a property tax:
(A) assessed on property;
(B) due on property;
(C) collected on property;
(D) abated on property; or
(E) deferred on property;
(x) the amount of the following relating to property taxes due on property:
(A) interest;
(B) costs; or
(C) other charges;
(xi) the tax status of property, including:
(A) an exemption;
(B) a property classification;
(C) a bankruptcy filing; or
(D) whether the property is the subject of an action or proceeding under this title;
(xii) information relating to a tax sale of property; or
(xiii) information relating to single-family residential property.
(b) (i) Subject to Subsection (3)(b)(ii), a person may receive the information described in Subsection (3)(a) in written format.
(ii) The following may charge a reasonable fee to cover the actual cost of providing the information described in Subsection (3)(a) in written format:
(A) the commission;
(B) a county;
(C) a city; or
(D) a town.
(4) (a) Notwithstanding Subsection (2) and except as provided in Subsection (4)(c), an individual listed under Subsection 59-1-403(1)(a) shall disclose commercial information:
(i) in accordance with judicial order;
(ii) on behalf of the commission in any action or proceeding:
(A) under this title;
(B) under another law under which a property taxpayer is required to disclose commercial information; or
(C) to which the commission is a party;
(iii) on behalf of any party to any action or proceeding under this title if the commercial information is directly involved in the action or proceeding; or
(iv) if the requirements of Subsection (4)(b) are met, that is:
(A) relevant to an action or proceeding:

(I) filed in accordance with this title; and
(II) involving property; or
(B) in preparation for an action or proceeding involving property.
(b) Commercial information shall be disclosed in accordance with Subsection (4)(a)(iv):
(i) if the commercial information is obtained from:
(A) a real estate agent if the real estate agent is not a property taxpayer of the property that is the subject of the action or proceeding;
(B) an appraiser if the appraiser:
(I) is not a property taxpayer of the property that is the subject of the action or proceeding; and
(II) did not receive the commercial information pursuant to Subsection (8);
(C) a property manager if the property manager is not a property taxpayer of the property that is the subject of the action or proceeding; or
(D) a property taxpayer other than a property taxpayer of the property that is the subject of the action or proceeding;
(ii) regardless of whether the commercial information is disclosed in more than one action or proceeding; and
(iii) (A) if a county board of equalization conducts the action or proceeding, the county board of equalization takes action to provide that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section;
(B) if the commission conducts the action or proceeding, the commission enters a protective order or, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, makes rules specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section; or
(C) if a court of competent jurisdiction conducts the action or proceeding, the court enters a protective order specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section.
(c) Notwithstanding Subsection (4)(a), a court may require the production of, and may admit in evidence, commercial information that is specifically pertinent to the action or proceeding.
(5) Notwithstanding Subsection (2), this section does not prohibit:
(a) the following from receiving a copy of any commercial information relating to the basis for assessing a tax that is charged to a property taxpayer:
(i) the property taxpayer;
(ii) a duly authorized representative of the property taxpayer;
(iii) a person that has in effect a contract with the property taxpayer to:
(A) make filings on behalf of the property taxpayer;
(B) process appeals on behalf of the property taxpayer; or
(C) pay a tax under Chapter 2, Property Tax Act, on the property taxpayer's

property;

(iv) a property taxpayer that purchases property from another property taxpayer; or

(v) a person that the property taxpayer designates in writing as being authorized to receive the commercial information;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of a particular property taxpayer's commercial information; or

(c) the inspection by the attorney general or other legal representative of the state or a legal representative of a political subdivision of the state of the commercial information of a property taxpayer:

(i) that brings action to set aside or review a tax or property valuation based on the commercial information;

(ii) against which an action or proceeding is contemplated or has been instituted under this title; or

(iii) against which the state or a political subdivision of the state has an unsatisfied money judgment.

(6) Notwithstanding Subsection (2), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish standards authorizing an individual listed under Subsection 59-1-403(1)(a) to disclose commercial information:

(a) (i) in a published decision; or

(ii) in carrying out official duties; and

(b) if that individual listed under Subsection 59-1-403(1)(a) consults with the property taxpayer that provided the commercial information.

(7) Notwithstanding Subsection (2):

(a) an individual listed under Subsection 59-1-403(1)(a) may share commercial information with the following:

(i) another individual listed in Subsection 59-1-403(1)(a)(i) or (ii); or

(ii) a representative, agent, clerk, or other officer or employee of a county as required to fulfill an obligation created by Chapter 2, Property Tax Act;

(b) an individual listed under Subsection 59-1-403(1)(a) may perform the following to fulfill an obligation created by Chapter 2, Property Tax Act:

(i) publish notice;

(ii) provide notice; or

(iii) file a lien; or

(c) the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share commercial information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, if these political subdivisions or the federal government grant substantially similar privileges to this state.

(8) Notwithstanding Subsection (2):

(a) subject to the limitations in this section, an individual described in Subsection 59-1-403(1)(a) may share the following commercial information with an appraiser:

(i) the sales price of locally assessed property and the related financing terms;
(ii) capitalization rates and related rates and ratios related to the valuation of locally assessed property; and
(iii) income and expense information related to the valuation of locally assessed property; and
(b) except as provided in Subsection (4), an appraiser who receives commercial information:
(i) may disclose the commercial information:
(A) to an individual described in Subsection 59-1-403(1)(a);
(B) to an appraiser;
(C) in an appraisal if protected commercial information is removed to protect its confidential nature; or
(D) in performing a consultation service if protected commercial information is not disclosed; and
(ii) may not use the commercial information:
(A) for a purpose other than to prepare an appraisal or perform a consultation service; or
(B) for a purpose intended to be, or which could reasonably be foreseen to be, anti-competitive to a property taxpayer.
(9) (a) The commission shall:
(i) prepare a written explanation of this section; and
(ii) make the written explanation described in Subsection (9)(a)(i) available to the public.
(b) An employer of a person described in Subsection 59-1-403(1)(a) shall:
(i) provide the written explanation described in Subsection (9)(a)(i) to each person described in Subsection 59-1-403(1)(a) who is reasonably likely to receive commercial information;
(ii) require each person who receives a written explanation in accordance with Subsection (9)(b)(i) to:
(A) read the written explanation; and
(B) sign the written explanation; and
(iii) retain each written explanation that is signed in accordance with Subsection (9)(b)(ii) for a time period:
(A) beginning on the day on which a person signs the written explanation in accordance with Subsection (9)(b)(ii); and
(B) ending six years after the day on which the employment of the person described in Subsection (9)(b)(iii)(A) by the employer terminates.
(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule define "employer."
(10) (a) An individual described in Subsection (1)(a) or 59-1-403(1)(a), or an individual that violates a protective order or similar limitation entered pursuant to Subsection (4)(b)(iii), is guilty of a class A misdemeanor if that person:
(i) intentionally discloses commercial information in violation of this section; and
(ii) knows that the disclosure described in Subsection (10)(a)(i) is prohibited by this section.

(b) If the individual described in Subsection (10)(a) is an officer or employee of the state or a county and is convicted of violating this section, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) If the individual described in Subsection (10)(a) is an appraiser, the appraiser shall forfeit any certification or license received under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, for a period of five years.

(d) If the individual described in Subsection (10)(a) is an individual associated with an appraiser who assists the appraiser in preparing appraisals, the individual shall be prohibited from becoming licensed or certified under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, for a period of five years.

Amended by Chapter 289, 2011 General Session

59-1-405. Commission consideration of confidential tax matters.

(1) As used in this section, "confidential tax matter" means:

(a) an offer in compromise;

(b) a private letter ruling;

(c) an appeal before the members of the commission;

(d) a tax matter if the disclosure of the tax matter is prohibited under:

(i) federal law;

(ii) Section 59-1-403; or

(iii) Section 59-1-404;

(e) a voluntary disclosure agreement; or

(f) a waiver request.

(2) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, the commission may hold a meeting that is not open to the public to conduct a hearing on, discuss, or take action on a confidential tax matter in accordance with the rules established as provided under this section.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(a) to establish procedures for holding a meeting that is not open to the public to conduct a hearing on, discuss, or take action on a confidential tax matter; and

(b) except as provided in Subsection (4), to establish procedures and requirements for keeping confidential minutes and a confidential recording of a meeting that is not open to the public.

(4) For purposes of Subsection (3)(b), the commission is not required to make rules to establish procedures and requirements for keeping confidential minutes and a confidential recording of:

(a) an initial hearing to the extent provided in Section 59-1-502.5; or

(b) private analysis, contemplation, and discussion by members of the commission:

(i) in performing the judicial aspects of their duties; and

(ii) consistent with state case law.

Enacted by Chapter 215, 2011 General Session

59-1-501. Procedure for obtaining redetermination of a deficiency -- Claim for refund.

(1) As used in this section:

(a) "Legal holiday" is as defined in Section 59-10-518.

(b) "Tax, fee, or charge" is as defined in Section 59-1-1402.

(2) A person may file a request for agency action, petitioning the commission for redetermination of a deficiency.

(3) Subject to Subsections (4) through (6), a person shall file the request for agency action described in Subsection (2):

(a) within a 30-day period after the date the commission mails a notice of deficiency to the person in accordance with Section 59-1-1405; or

(b) within a 90-day period after the date the commission mails a notice of deficiency to the person in accordance with Section 59-1-1405 if the notice of deficiency is addressed to a person outside the United States or the District of Columbia.

(4) If the last day of a time period described in Subsection (3) is a Saturday, Sunday, or legal holiday, the last day for a person to file a request for agency action is the next day that is not a Saturday, Sunday, or legal holiday.

(5) A person that mails a request for agency action shall mail the request for agency action in accordance with Section 59-1-1404.

(6) For purposes of Subsection (3), a person is considered to have filed a request for agency action:

(a) if the person mails the request for agency action, on the date the person is considered to have mailed the request for agency action in accordance with Section 59-1-1404; or

(b) if the person delivers the request for agency action to the commission by a method other than mail, on the date the commission receives the request for agency action.

(7) A person who has not previously filed a timely request for agency action in accordance with Subsection (3) may object to a final assessment issued by the commission by:

(a) paying the tax, fee, or charge; and

(b) filing a claim for a refund as provided in Section 59-1-1410.

Amended by Chapter 212, 2009 General Session

59-1-502.5. Initial hearing.

(1) At least 30 days before any formal hearing is held in response to a party's request for agency action, an initial hearing shall be held before one or more tax commissioners or an administrative law judge designated by the commission at which proffers of evidence, including testimony, documents, and other exhibits may be made and oral or written argument on legal issues may be received.

(2) Any party participating in an initial hearing shall have the right to informal

discovery under any rules established by the commission.

(3) Parties may appear at the initial hearing in person or through agents, employees, or other representatives, but any person appearing on behalf of another party or entity shall have full settlement authority on behalf of the party the person is representing.

(4) A record may not be kept of the initial hearing and all initial hearing proceedings are privileged and do not constitute admissions against interest of any party participating in the hearing.

(5) At the initial hearing, or as soon thereafter as reasonably practicable, the commission may take any action it deems appropriate to settle, compromise, or reduce the deficiency, or adjust the assessed valuation of any property.

(6) Nothing in this section may limit a party's right to a formal hearing under Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

59-1-503. Assessment and payment of deficiency.

(1) Following a redetermination of a deficiency by the commission, the entire amount redetermined as the deficiency by the decision of the commission, which has become final, shall be assessed and shall be paid within 30 days from the date the notice and demand is sent from the commission.

(2) If the taxpayer does not file a petition with the commission within the time prescribed for filing the petition, the deficiency, notice of which has been sent to the taxpayer, shall be assessed, and shall be paid within 30 days from the date the notice and demand is sent from the commission.

Amended by Chapter 9, 2001 General Session

59-1-504. Time determination final.

The action of the commission on the taxpayer's petition for redetermination of deficiency shall be final 30 days after the date the commission's notice of agency action is sent. All tax, interest, and penalties are due 30 days from the date the commission's decision or order is sent, unless the taxpayer seeks judicial review.

Amended by Chapter 86, 2000 General Session

59-1-601. District court jurisdiction.

(1) In addition to the jurisdiction granted in Section 63G-4-402, beginning July 1, 1994, the district court shall have jurisdiction to review by trial de novo all decisions issued by the commission after that date resulting from formal adjudicative proceedings.

(2) As used in this section, "trial de novo" means an original, independent proceeding, and does not mean a trial de novo on the record.

(3) (a) In any appeal to the district court pursuant to this section taken after January 1, 1997, the commission shall certify a record of its proceedings to the district

court.

(b) This Subsection (3) supercedes Section 63G-4-403 pertaining to judicial review of formal adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

59-1-602. Right to appeal -- Venue -- County as party in interest.

(1) (a) Any aggrieved party appearing before the commission or county whose tax revenues are affected by the decision may at that party's option petition for judicial review in the district court pursuant to this section, or in the Supreme Court or the Court of Appeals pursuant to Section 59-1-610.

(b) Judicial review of formal or informal adjudicative proceedings in the district is in the district court located in the county of residence or principal place of business of the affected taxpayer or, in the case of a taxpayer whose taxes are assessed on a statewide basis, to the Third Judicial District Court in and for Salt Lake County.

(c) Notwithstanding Section 63G-4-402, a petition for review made to the district court under this section shall conform to the Utah Rules of Appellate Procedure.

(2) A county whose tax revenues are affected by the decision being reviewed shall be allowed to be a party in interest in the proceeding before the court.

Amended by Chapter 382, 2008 General Session

59-1-604. Burden of proof -- Decision of court.

In proceedings of the district court under this part and on appeal therefrom, a preponderance of the evidence shall suffice to sustain the burden of proof. The burden of proof shall fall upon the parties seeking affirmative relief and the burden of going forward with the evidence shall shift as in other civil litigation. The district court shall render its decision in writing, including therein a concise statement of the facts found by the court and the conclusions of law reached by the court. The court may affirm, reverse, modify, or remand any order of the commission, and shall grant other relief, invoke such other remedies, and issue such orders, in accordance with its decision, as appropriate.

Amended by Chapter 326, 1998 General Session

59-1-607. Decision of district court as final determination.

Unless stayed, the decision of the district court shall be binding upon all parties until changed upon appeal. If no appeal is taken, the decision of the court shall constitute a final determination of the matter.

Amended by Chapter 127, 1992 General Session

59-1-608. Appeal.

The exclusive remedy for review of a decision or order of the district court entered under this part shall be by appeal. Any party to the action has the right to an

appeal.

Amended by Chapter 127, 1992 General Session

59-1-610. Standard of review of appellate court.

(1) When reviewing formal adjudicative proceedings commenced before the commission, the Court of Appeals or Supreme Court shall:

(a) grant the commission deference concerning its written findings of fact, applying a substantial evidence standard on review; and

(b) grant the commission no deference concerning its conclusions of law, applying a correction of error standard, unless there is an explicit grant of discretion contained in a statute at issue before the appellate court.

(2) This section supercedes Section 63G-4-403 pertaining to judicial review of formal adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

59-1-611. Requirement to post security -- Waiver -- Payment of tax, interest, or penalties after judicial decision -- Interest.

(1) As used in this section, "post security" means:

(a) posting with the commission, for the full or a partial amount of the deficiency as determined by the commission:

(i) a letter of credit;

(ii) a bond; or

(iii) other similar financial instrument acceptable to the commission; or

(b) as determined by the commission, depositing with the commission:

(i) the full amount of the deficiency; or

(ii) a partial amount of the deficiency.

(2) Except as provided in Subsection (3), a taxpayer that seeks judicial review of a final commission redetermination of a deficiency shall post security with the commission.

(3) The commission shall waive the requirements of Subsection (2) if a taxpayer establishes:

(a) that the taxpayer has sufficient financial resources to pay the deficiency if the deficiency is upheld in a final unappealable judgment or order by a court of competent jurisdiction; or

(b) as determined by the commission, that collection of the deficiency that is the subject of the appeal is not jeopardized by waiving the requirements of Subsection (2).

(4) (a) The commission may not unreasonably deny a waiver described in Subsection (3).

(b) A taxpayer may seek judicial review of the commission's decision to deny a waiver under Subsection (3) by the court reviewing the redetermination of the deficiency.

(5) If a taxpayer fails to comply with the requirements of Subsection (2), the reviewing court may, in its discretion, dismiss the taxpayer's appeal of the

redetermination of the deficiency.

(6) If the commission grants a waiver under Subsection (3), the taxpayer shall pay any tax, interest, or penalties:

(a) ordered by a court of competent jurisdiction; and

(b) within a 30-day period beginning on the day on which the order described in Subsection (6)(a) becomes final.

(7) If a taxpayer posts security with the commission, or the commission grants a waiver in accordance with this section, interest shall accrue on the unpaid taxes that are the subject of the deficiency at the rate and in the manner provided in Section 59-1-402.

Amended by Chapter 224, 2013 General Session

59-1-701. Grounds for termination and jeopardy assessment -- Notice -- Collection -- Reopening period -- Bond.

(1) If the commission finds that a taxpayer intends quickly to depart from this state or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act (including in the case of a taxpayer selling or otherwise distributing all or a part of its assets in liquidation or otherwise) tending to prejudice or to render wholly or partially ineffectual proceedings to collect any tax or penalty in lieu of tax for the current or the preceding taxable period, unless such proceedings be brought without delay, the commission may declare the taxable period for such taxpayer immediately terminated whether or not the time otherwise allowed by law for filing returns and paying the liability has expired. The commission shall immediately make a determination of tax for the current taxable period or for the preceding period, or both, and notwithstanding any other provision of law, the tax shall become immediately due and payable. The commission shall immediately assess the amount of the tax so determined (together with all interest, penalties, additional amounts, and additions to the tax provided by law) for the current taxable period or such preceding taxable period, or both, and shall give the notice of determination and assessment to the taxpayer, together with a demand for immediate payment of the tax.

(2) In the case of a current taxable period, the commission shall determine the tax for the period beginning on the first day of the current taxable period and ending on the date of the determination under Subsection (1) as though the period were a taxable period of the taxpayer. The commission shall take into account any prior determination made under this subsection with respect to such current taxable period. Any amounts collected as a result of any assessments under this subsection shall be treated as a partial payment of tax for the taxable period.

(3) Notwithstanding the termination of the taxable period of the taxpayer as provided in Subsection (1), the commission may reopen such taxable period each time the taxpayer is found by the commission to have incurred additional liabilities, within the current taxable period, since the termination of such period. A taxable period so terminated by the commission may be reopened by the taxpayer if he files a true and accurate return, as required under Title 59, Chapter 2, 7, 10, or 12, for the taxable period, together with such other information as the commission may by rule prescribe.

(4) Payment of taxes may not be enforced by any proceedings under Subsection (1) prior to the expiration of the time otherwise allowed for paying such taxes if the taxpayer furnishes, under rules prescribed by the commission, a bond to ensure the timely making of returns with respect to, and payment of, the taxes, penalties, or interest for prior periods.

Renumbered and Amended by Chapter 3, 1987 General Session

59-1-702. Jeopardy assessment -- Notice -- Amount.

(1) If the commission believes that the assessment or collection of any tax or penalty in lieu of tax will be jeopardized by delay, it shall, notwithstanding the assessment provisions of Title 59, Chapter 2, 7, 10, or 12, immediately assess such tax or penalty in lieu of tax (together with all interest, penalties, and additions to tax provided for by law), and notice and demand shall be made by the commission for the payment thereof.

(2) If the jeopardy assessment is made before any notice of the tax deficiency to which the jeopardy assessment relates has been mailed under Title 59, Chapter 2, 7, 10, or 12, then the commission shall mail a notice under this section within 60 days after the making of the assessment.

(3) The jeopardy assessment may be made of a deficiency greater or less than that set forth in the notice of deficiency, which has been mailed to the taxpayer, and whether or not the taxpayer has filed a petition with the commission. The commission may, at any time before rendering its decision, abate such assessment, or any unpaid portion thereof, to the extent that it believes the assessment to be excessive in amount. The commission has jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed.

(4) If the jeopardy assessment is made after the commission has rendered a decision on a taxpayer's petition for redetermination, the assessment may be made only in respect to the amount of the deficiency determined by the commission in its decision.

Renumbered and Amended by Chapter 3, 1987 General Session

59-1-703. Collection procedure -- Review -- Bond for stay -- Sale of seized property.

(1) (a) If an amount that is due and payable under Sections 59-1-701 and 59-1-702 is not paid, the commission shall collect that amount in accordance with Part 14, Assessment, Collections, and Refunds Act.

(b) (i) For purposes of collecting an amount described in Subsection (1)(a), the commission may issue a warrant.

(ii) The commission may direct the warrant described in Subsection (1)(b)(i) to an authorized representative of the commission.

(iii) In executing the warrant described in Subsection (1)(b)(i), the authorized representative described in Subsection (1)(b)(ii):

(A) has all of the powers conferred by law upon a sheriff; and

(B) may not collect a fee or other compensation for executing the warrant other than the actual expenses paid to execute the warrant.

(2) (a) The appropriateness of a termination or jeopardy assessment shall be reviewable under procedures prescribed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The amount of a termination or jeopardy assessment is reviewable only in the manner prescribed in Chapter 1, Part 5, Petitions for Redetermination of Deficiencies, and Part 6, Judicial Review.

(3) In a proceeding brought to enforce payment of a liability made due and payable under this section, Section 59-1-701, or 59-1-702, the finding of the commission, whether made after notice to the taxpayer or not, is presumptive evidence of jeopardy.

(4) (a) After a petition is filed with the commission and when the amount that the commission determines to be assessable becomes final, any unpaid portion that is stayed by bond shall be collected as part of the tax upon notice and demand from the commission.

(b) A portion remaining after the commission collects the amount determined to be assessable under Subsection (4)(a) shall be abated.

(c) If the amount the commission collects in accordance with Subsection (4)(a) exceeds the amount that should have been assessed, the excess shall be credited or refunded to the taxpayer.

(d) If the amount the commission determines to be assessable in accordance with Subsection (4)(a) is greater than the amount actually assessed, the difference shall be assessed, and collected as part of the tax, upon notice and demand by the commission.

(5) (a) The commission may abate a jeopardy assessment if the commission finds that jeopardy does not exist.

(b) An abatement described in Subsection (5)(a) may not be made after a decision of the commission in respect of the deficiency is rendered or, if no petition is filed with the commission, after the expiration of the period for filing a petition.

(c) The period of limitation on making an assessment or levy or a proceeding for collection, in respect of a deficiency, shall be determined as if the commission had not abated the jeopardy assessment under Subsection (5)(a).

(d) The running of the period of limitation on making an assessment or levy or a proceeding for collection shall be suspended from the date of a jeopardy assessment until the expiration of the 10th day after the jeopardy assessment is abated under this Subsection (5).

(6) (a) The collection of all or a part of a jeopardy assessment may be stayed by posting a bond with the commission in the amount and under conditions established by the commission.

(b) A taxpayer may waive a stay described in Subsection (6)(a) at any time in respect of all or part of the amount covered by the bond.

(c) If, as a result of a waiver described in Subsection (6)(b), any part of the amount covered by the bond is paid, the commission shall proportionately reduce the bond at the request of the taxpayer that waives the stay in accordance with Subsection

(6)(b).

(d) If any portion of a jeopardy assessment is abated, or if a notice of deficiency is mailed to a taxpayer in a lesser amount, the bond shall, at the request of the taxpayer, be proportionately reduced.

(7) (a) If a bond is posted before a taxpayer files a petition for redetermination of a deficiency under Section 59-1-501, the bond shall contain a condition that the amount of the deficiency assessment, the collection of which is stayed by the bond, shall be paid on notice and demand at any time after the expiration of the stay, together with interest on the deficiency assessment, beginning on the date of the jeopardy notice and demand and ending on the date of notice and demand under this Subsection (7)(a).

(b) A bond described in Subsection (7)(a) shall be conditioned upon the payment of that part of the assessment, collection of which is stayed by the bond, that is:

(i) not abated by a decision of the commission; and

(ii) final.

(c) If the commission determines that the amount of a deficiency assessed is greater than the amount that should have been assessed, the bond shall be proportionately reduced:

(i) at the time the decision of the commission is rendered; and

(ii) at the request of the taxpayer that posts the bond.

(8) (a) If a jeopardy assessment is made under this section, property seized for the collection of a tax may not be sold until:

(i) the commission issues a notice of deficiency; and

(ii) the time for filing a petition for redetermination expires.

(b) Except as provided in Subsection (8)(c), if a taxpayer files a petition for redetermination, regardless of whether the taxpayer files the petition for redetermination before or after the commission makes the jeopardy assessment, the property described in Subsection (8)(a) may not be sold until the commission's decision on the petition is final.

(c) For purposes of Subsection (8)(b), the property described in Subsection (8)(a) may be sold if:

(i) the taxpayer consents to the sale;

(ii) the commission determines that the expenses of conservation and maintenance of the property would greatly reduce the net proceeds of the sale; or

(iii) the property is perishable.

Amended by Chapter 212, 2009 General Session

59-1-704. Restraint of collection restricted.

(1) Except as otherwise provided in Parts 5, 6, and 7 of Chapter 1 and Chapters 2, 6, 7, 10, and 12 and the rules promulgated thereunder, no suit for the purpose of restraining the assessment or collection of any tax, penalty, or interest imposed under Chapter 1, 2, 6, 7, 10, or 12 may be maintained in any court by any person, whether or not such person is the person against whom such tax was assessed.

(2) No suit may be maintained in any court for the purpose of restraining the assessment or collection of the amount of the state tax liability of a transferee or of a fiduciary of property of a taxpayer.

Amended by Chapter 9, 2001 General Session

59-1-705. Payment and collection of penalties, interest, and other liabilities.

The penalties, interest, and other liabilities imposed by the provisions of Title 59 shall be paid by the taxpayer upon notice and demand by the commission, and shall be assessed and collected in the same manner as taxes. Except as otherwise provided, any reference in Title 59 to "tax" includes penalties, interest, and other liabilities.

Renumbered and Amended by Chapter 3, 1987 General Session

59-1-707. Writ of mandate requiring taxpayer to file return.

(1) (a) If a taxpayer fails to file any return required pursuant to Title 59 within 60 days of the time prescribed, the commission may petition for a writ of mandate to compel the taxpayer to file the return. The petition may be filed, in the discretion of the commission, in the Tax Division of the Third Judicial District or in the district court for the county in which the taxpayer resides or has his principal place of business. In the case of a nonresident taxpayer the petition shall be filed in the Third District Court.

(b) The court shall grant a hearing on the petition for a writ of mandate within 20 days after the filing of the petition or as soon thereafter as the court may determine, having regard for the rights of the parties and the necessity of a speedy determination of the petition.

(c) Upon a finding of failure to file a return within 60 days of the time prescribed pursuant to Title 59, the court shall issue a writ of mandate requiring the taxpayer to file a return. The order of the court shall include an award of attorneys' fees, court costs, witness fees, and all other costs in favor of the prevailing party.

(2) Nothing in this section shall limit the remedies otherwise available to the commission under Title 59 or other laws of this state.

Renumbered and Amended by Chapter 3, 1987 General Session

59-1-801.5. Purpose of compact -- Definitions -- Elements of sales and use tax laws -- The Multistate Tax Commission -- Uniform regulations and forms -- Interstate audits -- Entry into force and withdrawal -- Effect on other laws and jurisdiction -- Construction and severability.

The "Multistate Tax Compact" is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I. PURPOSES

The purposes of this compact are to:

1. Facilitate proper determination of state and local tax liability of multistate taxpayers.

2. Promote uniformity or compatibility in significant components of tax systems.

3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.

4. Avoid duplicative taxation.

ARTICLE II. DEFINITIONS

As used in this compact:

1. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

2. "Subdivision" means any governmental unit or special district of a state.

3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency, or person acting as a business entity in more than one state.

4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.

5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.

6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.

7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession, or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.

8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession, or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property, and (b) is complementary to a sales tax.

9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of Article V of this compact shall apply only to the taxes specifically designated therein.

ARTICLE III. ELEMENTS OF INCOME TAX LAWS (intentionally omitted)

ARTICLE IV. DIVISION OF INCOME (intentionally omitted)

ARTICLE V. ELEMENTS OF SALES AND USE TAX LAWS

Tax Credit

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any

subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

Exemption Certificates, Vendors May Rely

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

ARTICLE VI. THE COMMISSION

Organization and Management

1. (a) The Multistate Tax Commission is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or his designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission, but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under paragraph 1(e) of this article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that state.

(c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The commission shall adopt an official seal to be used as it may provide.

(e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular, and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The commission shall elect annually, from among its members, a chairman, a vice-chairman, and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix his duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel, or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies

and programs.

(h) The commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental entity.

(i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The commission may establish one or more offices for the transacting of its business.

(k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

(l) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount, and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

Committees

2. (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the chairman, vice-chairman, treasurer, and four other members elected annually by the commission. The executive committee, subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.

(b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The commission may establish such additional committees as its bylaws may provide.

Powers

3. In addition to powers conferred elsewhere in this compact, the commission shall have power to:

(a) study state and local tax systems and particular types of state and local taxes;

(b) develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration;

(c) compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws; and

(d) do all things necessary and incidental to the administration of its functions

pursuant to this compact.

Finance

4. (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1(i) of this article; provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under paragraph 1(i), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VII. UNIFORM REGULATIONS AND FORMS

1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, the commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms.

2. Prior to the adoption of any regulations, the commission shall:

(a) as provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings; and

(b) afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.

3. The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

ARTICLE VIII. INTERSTATE AUDITS

1. This article shall be in force only in those party states that specifically provide therefor by statute.

2. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records, or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

3. The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property, or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the commission within the state of which he is a resident; provided that such state has adopted this article.

4. The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in which the object of the order being sought is situated. The provisions of this paragraph apply only to courts in a state that has adopted this article.

5. The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.

6. Information obtained by any audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

8. In no event shall the commission make any charge against a taxpayer for an audit.

9. As used in this article, "tax," in addition to the meaning ascribed to it in Article II, means any tax or license fee imposed in whole or in part for revenue purposes.

ARTICLE IX. ARBITRATION (intentionally omitted)

ARTICLE X. ENTRY INTO FORCE AND WITHDRAWAL

1. This compact shall enter into force when enacted into law by any seven states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

3. No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

ARTICLE XI. EFFECT ON OTHER LAWS AND JURISDICTION

Nothing in this compact shall be construed to:

(a) affect the power of any state or subdivision thereof to fix rates of taxation;

(b) apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax; provided that the definition of "tax" in Article VIII 9 may apply for the purposes of that article and the commission's powers of study and recommendation pursuant to Article VI 3 may apply;

(c) withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body; or

(d) supersede or limit the jurisdiction of any court of the United States.

ARTICLE XII. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency,

person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

Enacted by Chapter 462, 2013 General Session

59-1-808. Interaudit provisions to apply.

Article VIII of the Multistate Tax Compact relating to interaudits shall be in force in and with respect to this state.

Renumbered and Amended by Chapter 3, 1987 General Session

59-1-809. Commission authority related to the Multistate Tax Commission and governmental entities.

The commission may furnish to the Multistate Tax Commission, a taxing official of another state, the District of Columbia, or the United States or its territories, any information contained in:

(1) a tax return or report, a related schedule, or a document filed pursuant to the tax laws of this state; or

(2) the report of an audit or investigation made with respect to a tax return or report, a related schedule, or a document described in Subsection (1).

Amended by Chapter 54, 2014 General Session

59-1-901. Creation -- Members -- Terms.

(1) There is created a state commission to be known as the Utah Tax Review Commission.

(2) (a) The Utah Tax Review Commission shall be composed of 16 members as follows:

(i) two members shall be appointed by the speaker of the House of Representatives from the House of Representatives, not more than one of whom may be from the same political party;

(ii) two members shall be appointed by the president of the Senate from the Senate, not more than one of whom may be from the same political party;

(iii) five members shall be appointed by the governor, not more than three of whom may be from the same political party;

(iv) one member who is a member of the State Tax Commission, appointed by the State Tax Commission, shall be an ex officio member of the Utah Tax Review Commission;

(v) one member who is the House of Representatives chair of the Revenue and Taxation Interim Committee shall be an ex officio member of the Utah Tax Review Commission; and

(vi) one member who is the Senate chair of the Revenue and Taxation Interim Committee shall be an ex officio member of the Utah Tax Review Commission.

(b) The 12 members appointed under Subsection (2)(a) shall then select four additional members with consideration to be given to achieving ethnic, cultural, and gender diversity, representation from the major geographical areas of the state, and equal bipartisan representation.

(3) (a) Except for members appointed under Subsections (2)(a)(i), (ii), (v), and (vi), and except as required by Subsection (3)(b), members shall be appointed to four-year terms.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

Amended by Chapter 288, 2007 General Session

59-1-902. Organization -- Vacancies.

(1) The governor shall appoint a chairperson and the review commission shall select other officers as needed.

(2) (a) If one of the members appointed by the speaker of the House of Representatives resigns, is unable to serve, or ceases to be a member of the House of Representatives, a vacancy occurs and it shall be filled by the speaker of the House of Representatives.

(b) If one of the members appointed by the president of the Senate resigns, is unable to serve, or ceases to be a member of the Senate, a vacancy occurs and it shall be filled by the president of the Senate.

(c) If one of the members appointed by the governor resigns or is unable to serve, the vacancy shall be filled by the governor.

(d) If one of the members appointed by the review commission resigns or is unable to serve, the vacancy shall be filled by the commission.

Enacted by Chapter 237, 1990 General Session

59-1-903. Duties.

The review commission shall make recommendations to the governor and the Legislature on specific tax issues, as requested by:

(1) the governor;

(2) the Legislature in a joint resolution of the Legislature; or

(3) the Legislative Management Committee.

Amended by Chapter 384, 2011 General Session

59-1-904. Public hearings.

The review commission may hold public hearings it considers advisable and in various locations within the state so that all interested persons who are citizens of this

state may be afforded an opportunity to appear and present their views in respect to any subject relating to the work of the review commission under Section 59-1-903.

Amended by Chapter 384, 2011 General Session

59-1-905. Per diem and travel expenses.

(1) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(2) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 387, 2014 General Session

59-1-907. Staff.

The review commission shall use the Office of Legislative Research and General Counsel as staff and may use the services of the staff of other state agencies as it considers desirable or necessary.

Enacted by Chapter 237, 1990 General Session

59-1-908. Reports.

The review commission may prepare, publish, and distribute, from time to time, reports of its studies and recommendations.

Enacted by Chapter 237, 1990 General Session

59-1-1001. Statement of taxpayer rights.

(1) The commission shall prepare written information in clear, nontechnical language of the taxpayer's rights and obligations and of the commission's procedures for appeal, refund claims, and collections.

(2) When the commission contacts a taxpayer in writing about the determination or collection of any tax, the commission shall notify the taxpayer of the availability of a written statement of the taxpayer's rights and obligations and of the commission's procedures for appeal, refund claims, and collections. If a taxpayer requests this information, the commission shall provide it to the taxpayer free of charge.

(3) In notices to taxpayers of taxes and penalties due, the commission shall notify the taxpayer of the procedure to follow in order to request detailed information concerning the additional taxes, tax penalties, or interest.

Enacted by Chapter 35, 1991 General Session

59-1-1002. Audit interviews.

(1) During any audit interview, the commission shall:

(a) require reasonable scheduling of its audit interviews;

(b) permit recording of audit interviews;

(c) explain its audit and collection process before the first interview; and

(d) allow a taxpayer to be represented at an interview by an attorney or other representative with power of attorney.

(2) The commission may not require a taxpayer to bring his attorney or other representative to interviews.

Enacted by Chapter 35, 1991 General Session

59-1-1003. Penalty waiver.

The commission shall waive penalties on taxpayer underpayments that are attributable to incorrect written advice obtained from the commission unless the taxpayer has given the commission inaccurate or insufficient information.

Enacted by Chapter 35, 1991 General Session

59-1-1004. Installment payments.

(1) The commission may enter into agreements with taxpayers on installment payments of taxes, penalties, and interest. The commission may revise, accelerate, or cancel the installment agreement if any of the following occurs:

(a) the commission determines that the financial condition of the taxpayer has substantially changed;

(b) the commission determines that the taxpayer provided inaccurate information concerning his financial condition; or

(c) the taxpayer fails to make timely payments pursuant to the terms of the installment agreement.

(2) The commission shall give the taxpayer reasonable notice of its intent to revise or cancel an installment agreement entered into under this section.

Enacted by Chapter 35, 1991 General Session

59-1-1005. Suits against commission and its employees.

(1) A taxpayer may bring a civil suit against the commission for recovery of actual damages and costs incurred by the taxpayer if:

(a) the commission or one of its employees intentionally or recklessly takes possession of a taxpayer's property in disregard of its published procedures, laws, or rules; or

(b) otherwise intentionally or recklessly disregards published procedures, laws, or rules.

(2) An award of actual damages and court costs in a suit under this section may not exceed $100,000.

(3) If the court finds that the civil action brought by the taxpayer is frivolous, the

court may impose a penalty of up to $10,000 against the taxpayer.

Amended by Chapter 9, 2001 General Session

59-1-1006. Application to jeopardy assessments and property tax.

The provisions of Section 59-1-1004 do not apply to jeopardy assessments authorized by Sections 59-1-701 through 59-1-707. The provisions of this part do not apply to Title 59, Chapter 2, Property Tax Act.

Amended by Chapter 30, 1992 General Session

59-1-1101. Private collection of tax -- Fee.

(1) The tax commission is authorized to employ private collectors for the collection of accounts that are unpaid over 12 months after the assessment date.

(2) Up to, but no more than, 33% of the money collected may be used to offset the payment to a private collector.

Amended by Chapter 182, 2000 General Session

59-1-1102. Disclosure of tax information -- Confidentiality.

(1) (a) Notwithstanding Section 59-1-403, the commission may disclose the tax due, the name of the taxpayer, and the taxpayer's address and phone number when any tax is referred to a private collector under Section 59-1-1101.

(b) This disclosure may not be made if it would be in violation of Section 6103 of the Internal Revenue Code.

(2) Any private collector is subject to the confidentiality requirements and penalty provisions provided in Section 59-1-403 with regard to these records.

Enacted by Chapter 165, 1994 General Session

59-1-1301. Title.

This part is known as the "Reportable Transactions Act."

Enacted by Chapter 237, 2006 General Session

59-1-1302. Definitions.

(1) "Gross income" is as defined in Section 61, Internal Revenue Code.

(2) "Income tax" means a tax imposed under:

(a) Chapter 7, Corporate Franchise and Income Taxes; or

(b) Chapter 10, Individual Income Tax Act.

(3) "Income tax return" means a return filed under:

(a) Chapter 7, Corporate Franchise and Income Taxes; or

(b) Chapter 10, Individual Income Tax Act.

(4) "Listed transaction" means a reportable transaction that is the same as, or substantially similar to, a transaction or arrangement specifically identified as a listed

transaction by the:

(a) United States Secretary of the Treasury in written materials interpreting the requirements of Section 6011, Internal Revenue Code; or

(b) commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) "Material advisor" is as defined in Section 6111, Internal Revenue Code.

(6) "Reportable transaction" means a transaction or arrangement that:

(a) is carried out through or invested in by one or more entities that:

(i) are organized in this state;

(ii) do business in this state;

(iii) derive gross income from sources within this state;

(iv) are subject to income tax; or

(v) are otherwise subject to the jurisdiction of this state; and

(b) is:

(i) a transaction or arrangement described in 26 C.F.R. Sec. 1.6011-4(b)(2) through (7); or

(ii) a reportable transaction as described by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(7) "Taxpayer" means a person that is required to file an income tax return.

(8) "Unitary group" is as defined in Section 59-7-101.

Amended by Chapter 382, 2008 General Session

59-1-1303. Taxpayer disclosure of reportable transactions.

(1) A taxpayer is subject to this section for each taxable year in which:

(a) the taxpayer participates in a reportable transaction;

(b) the taxpayer:

(i) is included in a federal consolidated return under Sections 1501 and 1504(b), Internal Revenue Code; and

(ii) participates in a reportable transaction; or

(c) the taxpayer is a member of a group that:

(i) is a unitary group; and

(ii) participates in a reportable transaction.

(2) (a) A taxpayer described in Subsection (1) shall disclose a reportable transaction to the commission in a manner required by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) If a taxpayer described in Subsection (1) is required to file a disclosure statement under 26 C.F.R. Sec. 1.6011-4, the taxpayer shall provide the commission a copy of that disclosure statement in a manner required by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) (a) For a listed transaction entered into on or after January 1, 2004, but on or before December 31, 2006, a disclosure statement required by this section shall be attached to:

(i) (A) the taxpayer's income tax return for the taxable year beginning on or after January 1, 2007, but beginning on or before December 31, 2007; and

(B) any amended income tax return that the taxpayer files for the taxable year beginning on or after January 1, 2007, but beginning on or before December 31, 2007; and

(ii) subject to Subsection (3)(b):

(A) the taxpayer's income tax return for any taxable year after the taxable year beginning on or after January 1, 2007, but beginning on or before December 31, 2007, for which there is a reduction in income tax as a result of the listed transaction; and

(B) any amended income tax return for any taxable year after the taxable year beginning on or after January 1, 2007, but beginning on or before December 31, 2007, for which there is a reduction in income tax as a result of the listed transaction.

(b) For purposes of Subsection (3)(a)(ii), a reduction in income tax as a result of a listed transaction includes a loss, credit, or deduction if the loss, credit, or deduction results from a listed transaction that is carried forward or carried back.

(4) For a reportable transaction entered into on or after January 1, 2004, a disclosure statement required by this section shall be attached to an amended income tax return filed on or after January 1, 2007, if the filing of the amended income tax return reflects a determination by the Internal Revenue Service of the federal income tax treatment of the reportable transaction.

(5) (a) For a reportable transaction entered into on or after January 1, 2007, a disclosure statement required by this section shall be attached to:

(i) (A) the taxpayer's income tax return for the taxable year during which the transaction was entered into; and

(B) any amended income tax return that the taxpayer files for the taxable year during which the transaction was entered into; and

(ii) subject to Subsection (5)(b):

(A) the taxpayer's income tax return for any taxable year after the taxable year during which the transaction was entered into, for which there is a reduction in income tax as a result of the reportable transaction; and

(B) any amended income tax return for any taxable year after the taxable year during which the transaction was entered into, for which there is a reduction in income tax as a result of the reportable transaction.

(b) For purposes of Subsection (5)(a)(ii), a reduction in income tax as a result of a reportable transaction includes a loss, credit, or deduction if the loss, credit, or deduction results from a reportable transaction that is carried forward or carried back.

Amended by Chapter 382, 2008 General Session

59-1-1304. Penalty for taxpayer failure to disclose a reportable transaction.

(1) (a) Except as provided in Subsection (1)(b), a taxpayer that fails to disclose a reportable transaction as required by Section 59-1-1303 is subject to a penalty of $15,000.

(b) A taxpayer that fails to disclose a listed transaction as required by Section 59-1-1303 is subject to a penalty of $30,000.

(2) A penalty imposed by this section is in addition to any other penalty imposed

by this title.

Enacted by Chapter 237, 2006 General Session

59-1-1305. Penalty for taxpayer underpayment of tax attributable to a reportable transaction.

(1) If the underpayment of a tax by a taxpayer is attributable to a reportable transaction, the taxpayer is subject to a penalty that is equal to the product of:

(a) 10%; and

(b) the amount of the tax underpayment attributable to the reportable transaction.

(2) If a taxpayer amends an income tax return to change the tax treatment of a reportable transaction after the day on which the commission contacts the taxpayer regarding the examination of the income tax return, that change in the tax treatment of the reportable transaction contained in the amended income tax return may not be considered in determining a tax underpayment under this section.

(3) A penalty imposed by this section is in addition to any other penalty imposed by this title.

Enacted by Chapter 237, 2006 General Session

59-1-1306. Material advisor disclosure of reportable transactions.

(1) (a) A material advisor shall disclose a reportable transaction to the commission on a form provided by the commission.

(b) The disclosure described in Subsection (1)(a):

(i) shall include information:

(A) identifying and describing the transaction; and

(B) describing any potential tax benefits expected to result from the transaction; and

(ii) may include information other than the information described in Subsection (1)(b)(i) as required by the commission.

(2) If a material advisor described in Subsection (1) is required to file a return disclosing a reportable transaction under Section 6111, Internal Revenue Code, the material advisor shall provide the commission a copy of that return.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules prescribing:

(a) the date a:

(i) disclosure required by Subsection (1) shall be filed with the commission; and

(ii) copy of a return required by Subsection (2) shall be filed with the commission;

(b) that only one person may be required to meet the requirements of Subsection (1) or (2) if two or more persons would otherwise be required to meet the requirements of Subsection (1) or (2); and

(c) exemptions from Subsection (1) or (2).

Amended by Chapter 382, 2008 General Session

59-1-1307. Material advisor maintenance of list.

(1) For each reportable transaction, a material advisor shall maintain a list of the persons to which the material advisor provides material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out a reportable transaction.

(2) The list described in Subsection (1) shall include:

(a) the name of each person described in Subsection (1) that is:

(i) a taxpayer;

(ii) (A) a taxpayer; and

(B) a member of a unitary group; or

(iii) (A) a taxpayer; and

(B) included in a federal consolidated return under Sections 1501 and 1504(b), Internal Revenue Code;

(b) the same information required to be contained in the list described in 26 C.F.R. Sec. 301.6112-1; and

(c) any additional information required by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) The list described in Subsection (1) shall be maintained in the same form and manner as the list described in 26 C.F.R. Sec. 301.6112-1.

(4) A material advisor required to maintain a list under Subsection (1) shall:

(a) make the list available to the commission upon written request by the commission; and

(b) retain the information that is required to be included on the list for seven years.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules prescribing that only one person may be required to meet the requirements of this section if two or more persons would otherwise be required to meet the requirements of this section.

Amended by Chapter 382, 2008 General Session

59-1-1308. Material advisor penalties.

(1) The penalty for failure of a material advisor to disclose a reportable transaction as required by Section 59-1-1306 is $20,000.

(2) If a material advisor that is required to disclose a reportable transaction in accordance with Section 59-1-1306 provides false or incomplete information to the commission, the penalty is $20,000.

(3) If a material advisor that is required to maintain a list under Section 59-1-1307 fails to make that list available to the commission within a 20-day period after the day on which the commission mails a written request for that list, the material advisor is subject to a penalty of $10,000 for each day that the material advisor fails to make that list available to the commission after the expiration of the 20-day period.

(4) A penalty imposed by this section is in addition to any other penalty imposed

by this title.

Enacted by Chapter 237, 2006 General Session

59-1-1309. Penalty may be waived, reduced, or compromised for reasonable cause.

Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise a penalty imposed by this part.

Enacted by Chapter 237, 2006 General Session

59-1-1401. Title.

This part is known as the "Assessment, Collections, and Refunds Act."

Enacted by Chapter 212, 2009 General Session

59-1-1402. Definitions.

As used in this part:

(1) "Administrative cost" means a fee imposed to cover:

(a) the cost of filing;

(b) the cost of administering a garnishment; or

(c) a cost similar to Subsection (1)(a) or (b) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) "Books and records" means the following made available in printed or electronic format:

(a) an account;

(b) a book;

(c) an invoice;

(d) a memorandum;

(e) a paper;

(f) a record; or

(g) an item similar to Subsections (2)(a) through (f) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Deficiency" means:

(a) the amount by which a tax, fee, or charge exceeds the difference between:

(i) the sum of:

(A) the amount shown as the tax, fee, or charge by a person on the person's return; and

(B) any amount previously assessed, or collected without assessment, as a deficiency; and

(ii) any amount previously abated, credited, refunded, or otherwise repaid with respect to that tax, fee, or charge; or

(b) if a person does not show an amount as a tax, fee, or charge on the person's

return, or if a person does not make a return, the amount by which the tax, fee, or charge exceeds:

(i) the amount previously assessed, or collected without assessment, as a deficiency; and

(ii) any amount previously abated, credited, refunded, or otherwise repaid with respect to that tax, fee, or charge.

(4) "Garnishment" means any legal or equitable procedure through which one or more of the following are required to be withheld for payment of an amount a person owes:

(a) an asset of the person held by another person; or

(b) the earnings of the person.

(5) "Liability" means the following that a person is required to remit to the commission:

(a) a tax, fee, or charge;

(b) an addition to a tax, fee, or charge;

(c) an administrative cost;

(d) interest that accrues in accordance with Section 59-1-402; or

(e) a penalty that accrues in accordance with Section 59-1-401.

(6) (a) Subject to Subsection (6)(b), "mathematical error" is as defined in Section 6213(g)(2), Internal Revenue Code.

(b) The reference to Section 6213(g)(2), Internal Revenue Code, in Subsection (6)(a) means:

(i) the reference to Section 6213(g)(2), Internal Revenue Code, in effect for the taxable year; or

(ii) a corresponding or comparable provision of the Internal Revenue Code as amended, redesignated, or reenacted.

(7) (a) Except as provided in Subsection (7)(b), "tax, fee, or charge" means:

(i) a tax, fee, or charge the commission administers under:

(A) this title;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-410.5;

(E) Section 19-6-714;

(F) Section 19-6-805;

(G) Section 32B-2-304;

(H) Section 34A-2-202;

(I) Section 40-6-14;

(J) Section 69-2-5;

(K) Section 69-2-5.5; or

(L) Section 69-2-5.6; or

(ii) another amount that by statute is administered by the commission.

(b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(iii) Chapter 2, Property Tax Act;

(iv) Chapter 3, Tax Equivalent Property Act;
(v) Chapter 4, Privilege Tax; or
(vi) Chapter 13, Part 5, Interstate Agreements.
(8) "Transferee" means:
(a) a devisee;
(b) a distributee;
(c) a donee;
(d) an heir;
(e) a legatee; or
(f) a person similar to Subsections (8)(a) through (e) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 357, 2012 General Session

59-1-1402.1. Exceptions to applicability of this part.
This part does not apply to:
(1) Chapter 2, Property Tax Act;
(2) Chapter 3, Tax Equivalent Property Act; or
(3) Chapter 4, Privilege Tax.

Enacted by Chapter 52, 2011 General Session

59-1-1403. Commission to collect a tax, fee, or charge -- Receipt for tax, fee, or charge paid -- Additional remedies -- Collection agents and counsel -- Action by attorney general or county attorney -- Commission rulemaking authority.
(1) Except as otherwise provided in this title, the commission shall collect a tax, fee, or charge.
(2) The commission may designate an agent to collect a tax, fee, or charge.
(3) The commission shall, upon request, give a receipt for a tax, fee, or charge the commission collects.
(4) (a) A remedy provided in this part is in addition to other existing remedies.
(b) An action taken by the commission may not be construed to be an election on the part of the state or an officer of the state to pursue a remedy under this part to the exclusion of another remedy.
(5) The commission may:
(a) retain counsel for the purpose of collecting an amount the commission assesses against a person who is not a resident of this state;
(b) establish the compensation of an agent described in Subsection (2) or counsel described in Subsection (5)(a) to be paid out of money appropriated or otherwise lawfully available for payment to the agent or counsel; and
(c) require a bond or other security for an agent described in Subsection (2) or counsel described in Subsection (5)(a) in a form and amount the commission considers appropriate.

(6) (a) The commission shall represent the state in a matter pertaining to the collection of a tax, fee, or charge.

(b) The commission may institute a proceeding to enforce a judgment allowing for the collection of a liability in the district court of a county in which is located a portion of property against which collection is sought.

(c) For purposes of Subsection (6)(b), the commission may request that the following assist the commission:

(i) the attorney general; or

(ii) a county attorney.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish a collection procedure:

(a) in addition to the methods of collecting a liability provided in this title;

(b) that is consistent with this part;

(c) that uses a return, warrant, or other reasonable document or method; and

(d) that is necessary in collecting a liability.

Enacted by Chapter 212, 2009 General Session

59-1-1404. Definition -- Mailing procedures -- Rulemaking authority -- Commission mailing requirements.

(1) As used in this section, "Section 7502, Internal Revenue Code" means:

(a) Section 7502, Internal Revenue Code, in effect for the taxable year; or

(b) a corresponding or comparable provision to Section 7502, Internal Revenue Code, as amended, redesignated, or reenacted.

(2) If the commission or a person is required to mail a document under this part:

(a) the commission or the person shall mail the document using:

(i) the United States Postal Service; or

(ii) a delivery service the commission describes or designates in accordance with any rules the commission makes as authorized by Subsection (3); and

(b) the document is considered to be mailed:

(i) for a document that is mailed using the method described in Subsection (2)(a)(i), on the date the document is postmarked; or

(ii) for a document that is mailed using the method described in Subsection (2)(a)(ii), on the date the delivery service records or marks the document as having been received by the delivery service for delivery in accordance with any rules the commission makes as authorized by Subsection (3).

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) describing or designating one or more delivery services the commission or a person may use to mail a document under this part if a delivery service the commission describes or specifies is consistent with the definition of "designated delivery service" in Section 7502, Internal Revenue Code; or

(b) providing procedures or requirements for determining the date a delivery service records or marks a document as having been received by the delivery service for delivery if those rules are consistent with Section 7502, Internal Revenue Code.

(4) Subject to Subsection (5), if the commission is required to mail a notice to a person under this part, the commission shall mail the notice to the person at the person's last-known address as shown on the records of the commission.

(5) In the case of a joint return filed by a husband and wife under Chapter 10, Individual Income Tax Act, if the commission is notified in writing by either spouse that separate residences have been established, the commission shall mail a duplicate of the joint notice to each spouse at each spouse's last-known address.

Enacted by Chapter 212, 2009 General Session

59-1-1405. Notice of deficiency -- Notice of assessment -- Amended return -- Exception.

(1) Except as provided in Subsection (3) or (5), the commission shall mail a notice of deficiency to a person in accordance with Section 59-1-1404 if the commission finds there is:

(a) a deficiency in a tax, fee, or charge imposed; or

(b) an increase or decrease in a deficiency.

(2) A notice of deficiency described in Subsection (1) shall contain:

(a) the details of the deficiency; and

(b) the manner of computing the tax.

(3) If the commission estimates an amount of tax, fee, or charge due under Subsection 59-1-1406(2), the commission:

(a) shall mail a notice of deficiency:

(i) to the person for which the commission estimates the amount of tax, fee, or charge due; and

(ii) in accordance with Section 59-1-1404; or

(b) shall:

(i) mail a notice to the person for which the commission estimates the amount of tax, fee, or charge due:

(A) that the amount the commission estimates as a tax, fee, or charge is an assessment; and

(B) in accordance with Section 59-1-1404; and

(ii) provide in the notice described in Subsection (3)(b)(i) that if the person files an amended return within the time period provided in Section 59-1-1410, the commission shall replace the assessment with the amount shown on the person's amended return.

(4) If the commission mails notice to a person under Subsection (3)(b), the person may file an amended return within the period provided in Section 59-1-1410 to replace the assessment of tax.

(5) If the commission makes a jeopardy assessment under Part 7, Termination and Jeopardy Assessments Procedure:

(a) the commission is not required to mail a notice of deficiency described in Subsection (1) to the person against which the commission makes the jeopardy assessment; and

(b) the jeopardy assessment is subject to the procedures and requirements of

Part 7, Termination and Jeopardy Assessments Procedure.

Enacted by Chapter 212, 2009 General Session

59-1-1406. Record retention -- Commission estimates tax if person fails to file a return.

(1) A person subject to a tax, fee, or charge shall:

(a) keep in a form prescribed by the commission books and records that are necessary to determine the amount of a tax, fee, or charge the person owes;

(b) keep books and records described in Subsection (1)(a) for the time period during which an assessment may be made under Section 59-1-1408; and

(c) open the person's books and records for examination at any time by:

(i) the commission; or

(ii) an agent or representative the commission designates.

(2) (a) If a person required to file a return with the commission fails to file the return with the commission, the commission may estimate the tax, fee, or charge due from the best information or knowledge the commission can obtain.

(b) An estimate the commission makes under Subsection (2)(a) is considered to be a return filed on the date the commission makes the estimate.

(3) For the purpose of ascertaining the correctness of a return or for estimating a tax, fee, or charge due in accordance with Subsection (2)(a), the commission may:

(a) examine the books and records bearing upon the matter required to be included in a return;

(b) authorize an agent or representative designated by the commission to examine the books and records bearing upon the matter required to be included in a return;

(c) require the attendance of:

(i) an officer or employee of a person required to make a return; or

(ii) a person having knowledge of a pertinent fact;

(d) take testimony; or

(e) require any other necessary information.

Enacted by Chapter 212, 2009 General Session

59-1-1407. Mathematical errors.

(1) The commission shall correct a mathematical error.

(2) The commission shall provide notice to a person if:

(a) because of a mathematical error appearing on a return, an amount of tax, fee, or charge in excess of that shown upon the return is due; and

(b) an assessment of the amount of tax, fee, or charge is or will be made on the basis of what would have been the correct amount of tax, fee, or charge but for the mathematical error.

(3) The notice required by Subsection (2):

(a) shall describe the mathematical error; and

(b) is not considered to be a notice of deficiency.

(4) For purposes of Subsection (2):

(a) there is no restriction upon the assessment and collection of an amount of tax, fee, or charge described in Subsection (2); and

(b) the person described in Subsection (2) does not have a right to:

(i) file a petition to the commission on the basis of a notice provided under Subsection (2); or

(ii) apply for review by a district court or the Utah Supreme Court of the determination of a mathematical error by the commission.

Enacted by Chapter 212, 2009 General Session

59-1-1408. Assessments.

(1) Except as provided in Subsections (2) through (4), an assessment is made on the date a liability is posted to the records of the commission.

(2) Except as provided in Subsection (4), for purposes of a liability for which the commission mails a notice of deficiency to a person in accordance with Section 59-1-1405, an assessment is made:

(a) if a person has not filed a petition for redetermination of a deficiency under Section 59-1-501, on the date:

(i) (A) 30 days after the day on which the commission mails the notice of deficiency to the person; or

(B) 90 days after the day on which the commission mails the notice of deficiency to the person if the notice is addressed to a person outside the United States or the District of Columbia; or

(ii) the person in writing:

(A) agrees with the commission on the existence and amount of the liability; and

(B) consents to the assessment of the liability; or

(b) if a person files a petition for redetermination of a deficiency under Section 59-1-501, on the date the liability resulting from a final commission decision is posted to the records of the commission.

(3) Except as provided in Subsection (4), for purposes of a notice of proposed penalty under Section 59-1-302 or Subsection 59-1-401(7), an assessment is made:

(a) if a person has not filed a petition for redetermination of a deficiency under Section 59-1-501, on the date:

(i) (A) 30 days after the day on which the commission mails the notice of proposed penalty to the person; or

(B) 90 days after the day on which the commission mails the notice of proposed penalty to the person if the notice is addressed to a person outside the United States or the District of Columbia; or

(ii) the person in writing:

(A) agrees with the commission on the existence and amount of the liability; and

(B) consents to the assessment of the liability; or

(b) if a person files a petition for redetermination of a deficiency under Section 59-1-501, on the date the liability resulting from a final commission decision is posted to the records of the commission.

(4) In the case of interest under Section 59-1-402 that accrues to a tax, fee, or charge, an assessment is considered to have been made on the date the tax, fee, or charge is assessed.

(5) The commission may at any time within the time period prescribed for assessment under Section 59-1-1410, increase or decrease an assessment if the commission ascertains that the assessment is imperfect or incomplete in a material respect.

Enacted by Chapter 212, 2009 General Session

59-1-1409. Definition -- Recomputation of amounts due -- Refunds allowed.

(1) As used in this section, "overpayment" means the amount by which a tax, fee, or charge a person pays exceeds the amount of tax, fee, or charge the person owes.

(2) If the commission determines that the correct amount of a tax, fee, or charge a person is required to remit is greater or less than the amount shown to be due on a return, the commission shall:

(a) recompute the tax, fee, or charge; and

(b) mail notice to the person:

(i) that the commission recomputed the tax, fee, or charge; and

(ii) in accordance with Section 59-1-1404.

(3) If the amount of a tax, fee, or charge a person pays exceeds the amount of tax, fee, or charge the person owes, the commission shall:

(a) credit the overpayment against any liability the person owes; and

(b) refund any balance to:

(i) the person; or

(ii) (A) the person's assign;

(B) the person's personal representative;

(C) the person's successor; or

(D) a person similar to Subsections (3)(b)(ii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) The commission may not credit or refund interest on an overpayment to a person if the commission determines that the overpayment was made for the purpose of investment.

(5) If the commission erroneously determines an amount of tax, fee, or charge to be due from a person, the commission shall:

(a) authorize the amount to be cancelled upon the commission's records; and

(b) mail notice to the person:

(i) that the commission cancelled the amount upon the commission's records; and

(ii) in accordance with Section 59-1-1404.

Enacted by Chapter 212, 2009 General Session

59-1-1410. Action for collection of tax, fee, or charge -- Action for refund or credit of tax, fee, or charge -- Denial of refund claim under appeal -- Appeal of denied refund claim.

(1) (a) Except as provided in Subsections (3) through (7) and Sections 59-5-114, 59-7-519, 59-10-536, and 59-11-113, the commission shall assess a tax, fee, or charge within three years after the day on which a person files a return.

(b) Except as provided in Subsections (3) through (7), if the commission does not assess a tax, fee, or charge within the three-year period provided in Subsection (1)(a), the commission may not commence a proceeding to collect the tax, fee, or charge.

(2) (a) Except as provided in Subsection (2)(b), for purposes of this part, a return filed before the last day prescribed by statute or rule for filing the return is considered to be filed on the last day for filing the return.

(b) A return of withholding tax under Chapter 10, Part 4, Withholding of Tax, is considered to be filed on April 15 of the succeeding calendar year if the return:

(i) is for a period ending with or within a calendar year; and

(ii) is filed before April 15 of the succeeding calendar year.

(3) The commission may assess a tax, fee, or charge or commence a proceeding for the collection of a tax, fee, or charge at any time if:

(a) a person:

(i) files a:

(A) false return with intent to evade; or

(B) fraudulent return with intent to evade; or

(ii) fails to file a return; or

(b) the commission estimates the amount of tax, fee, or charge due in accordance with Subsection 59-1-1406(2).

(4) The commission may extend the period to make an assessment or to commence a proceeding to collect a tax, fee, or charge if:

(a) the three-year period under Subsection (1) has not expired; and

(b) the commission and the person sign a written agreement:

(i) authorizing the extension; and

(ii) providing for the length of the extension.

(5) The commission may make an assessment as provided in Subsection (6) if:

(a) the commission delays an audit at the request of a person;

(b) the person subsequently refuses to agree to an extension request by the commission; and

(c) the three-year period under Subsection (1) expires before the commission completes the audit.

(6) An assessment under Subsection (5) shall be:

(a) for the time period for which the commission could not make the assessment because of the expiration of the three-year period; and

(b) in an amount equal to the difference between:

(i) the commission's estimate of the amount of tax, fee, or charge the person would have been assessed for the time period described in Subsection (6)(a); and

(ii) the amount of tax, fee, or charge the person actually paid for the time period

described in Subsection (6)(a).

(7) If a person erroneously pays a liability, overpays a liability, pays a liability more than once, or the commission erroneously receives, collects, or computes a liability, the commission shall:

(a) credit the liability against any amount of liability the person owes; and

(b) refund any balance to:

(i) the person; or

(ii) (A) the person's assign;

(B) the person's personal representative;

(C) the person's successor; or

(D) a person similar to Subsections (7)(b)(ii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) (a) Except as provided in Subsection (8)(b) or Section 19-12-203, 59-7-522, 59-10-529, or 59-12-110, the commission may not make a credit or refund unless a person files a claim with the commission within the later of:

(i) three years from the due date of the return, including the period of any extension of time provided in statute for filing the return; or

(ii) two years from the date the tax was paid.

(b) The commission shall extend the time period for a person to file a claim under Subsection (8)(a) if:

(i) the time period described in Subsection (8)(a) has not expired; and

(ii) the commission and the person sign a written agreement:

(A) authorizing the extension; and

(B) providing for the length of the extension.

(9) If the commission denies a claim for a credit or refund, a person may request a redetermination of the denial by filing a petition or request for agency action with the commission:

(a) (i) within a 30-day period after the day on which the commission mails a notice of denial for the claim for credit or refund; or

(ii) within a 90-day period after the day on which the commission mails a notice of denial for the claim for credit or refund, if the notice is addressed to a person outside the United States or the District of Columbia; and

(b) in accordance with:

(i) Section 59-1-501; and

(ii) Title 63G, Chapter 4, Administrative Procedures Act.

(10) The action of the commission on a person's petition for redetermination of a denial of a claim for credit or refund is final 30 days after the day on which the commission sends the commission's decision or order, unless the person seeks judicial review.

Amended by Chapter 24, 2014 General Session

59-1-1411. Notice and demand.

(1) The commission shall as soon as practicable mail notice and demand to a

person who owes a liability that has been assessed but remains unpaid.

(2) (a) The notice and demand required by Subsection (1) shall:

(i) except as provided in Subsection (2)(b), state the amount of the liability;

(ii) demand payment of the liability; and

(iii) be mailed in accordance with Section 59-1-1404.

(b) For purposes of Subsection (2)(a)(i), the notice and demand shall:

(i) state the amount of interest and penalties that have accrued as of the date of the notice and demand; and

(ii) include a statement that interest and penalties may continue to accrue in accordance with Sections 59-1-401 and 59-1-402.

(3) Payment for a liability may not be demanded before the last day prescribed for payment of the liability, including an extension, unless the commission determines under Section 59-1-701 that collection of the liability would be jeopardized by delay.

(4) Upon issuance of the notice and demand described in this section, a person that owes a liability shall pay the liability at the place and time stated in the notice and demand.

Enacted by Chapter 212, 2009 General Session

59-1-1412. Applicability of section -- Delinquent payment -- Notice to third parties.

(1) (a) Except as provided in Subsection (1)(b), this section applies to a delinquency in the payment of a liability.

(b) This section does not apply to a garnishment.

(2) If a person is delinquent in the payment of a liability, the commission may mail notice of the amount of the delinquency:

(a) to a person that at the time of the receipt of the notice has in that person's possession, under that person's control, or owing to that person:

(i) a credit of the person owing the liability;

(ii) personal property of the person owing the liability; or

(iii) a debt of the person owing the liability; and

(b) in accordance with Section 59-1-1404.

(3) A person to which the commission mails notice in accordance with this section shall, within 10 days after the date the commission mails the notice, advise the commission of the following in the person's possession, under the person's control, or owing to the person:

(a) a credit of the person owing the liability;

(b) personal property of the person owing the liability; or

(c) a debt of the person owing the liability.

(4) A person to which the commission mails notice in accordance with this section may not transfer or make any other disposition of a credit, personal property, or debt described in Subsection (3) until the sooner of:

(a) the commission consents to the transfer or disposition; or

(b) 20 days elapse after the day on which the person provides the commission the information required by Subsection (3).

Enacted by Chapter 212, 2009 General Session

59-1-1413. Lien for a liability.

(1) In addition to Section 40-6-14, 59-5-108, 59-5-208, 59-11-110, 59-12-112, 59-13-302, or 59-13-311, if a person that owes a liability fails to pay that liability after the commission mails notice and demand under Section 59-1-1411, the amount of liability, plus any administrative cost, is a lien in favor of the state upon all property and rights to property, whether real or personal, belonging to that person.

(2) Unless another date is specifically established by law, the lien imposed by this section:

(a) arises at the time the commission makes the assessment of the tax, fee, or charge that is part of the liability; and

(b) continues until the liability and administrative costs described in Subsection (1), or a judgment against the person arising from that liability and administrative costs:

(i) is satisfied; or

(ii) is unenforceable because the time period described in Subsection 59-1-1414(8) has elapsed.

Enacted by Chapter 212, 2009 General Session

59-1-1414. Warrant procedures -- Judgment -- Notice requirements after filing warrant.

(1) Except as provided in Subsections (3) and (4), if a person who owes a liability fails to pay that liability within 30 days after the day on which the commission mails notice and demand under Section 59-1-1411, the commission may:

(a) file a warrant with the clerk of:

(i) except as provided in Subsection (1)(a)(ii), the district court of any county in which that person has real or personal property; or

(ii) if the person is not a resident of this state, the Third District Court in Salt Lake City; or

(b) issue a warrant in duplicate under its official seal directed to the sheriff of a county requiring the sheriff to:

(i) levy upon and sell the person's real and personal property for the payment of the liability, plus the cost of executing the warrant; and

(ii) return to the commission within 60 days:

(A) the warrant; and

(B) the money collected under the warrant.

(2) (a) A sheriff that receives a warrant under Subsection (1) shall within five days file a duplicate copy of the warrant with the clerk of the district court of the appropriate county.

(b) (i) The sheriff shall execute the warrant in the same manner prescribed by law for an execution issued against property in accordance with a judgment by a court.

(ii) An execution of a warrant described in Subsection (2)(b)(i) has the same effect as an execution issued against property in accordance with a judgment by a

court.

(iii) A sheriff that executes a warrant under Subsection (2)(b)(i) shall receive fees for the sheriff's services in executing the warrant as if the sheriff were executing a judgment by a court.

(3) The commission may file a warrant without regard to the 30-day period provided in Subsection (1) if the commission finds that the collection of a liability that a person owes is in jeopardy.

(4) The commission may not file a warrant under this section more than three years after the assessment of the tax, fee, or charge that is a portion of a liability.

(5) A clerk of a district court that receives a warrant under this section shall enter in the judgment docket:

(a) in the column for judgment debtors, the name of the person stated in the warrant; and

(b) in appropriate columns:

(i) the amount for which the warrant is filed; and

(ii) the date the warrant is filed.

(6) Notwithstanding Section 78B-5-202, the liability that serves as the basis for a warrant is a binding lien upon the real, personal, and other property of the person to the same extent as other judgments docketed in the office of the clerk of the district court.

(7) When a warrant is filed with the clerk of a district court in accordance with this section, the commission is considered to have obtained a judgment against a person for a liability.

(8) Notwithstanding Section 78B-5-202, a judgment described in Subsection (7) is effective for a period ending 10 years after the date the amount for which the warrant is filed is assessed in accordance with Section 59-1-1408.

(9) The commission may not renew a judgment described in Subsection (7).

(10) The commission may authorize an action or proceeding to collect or enforce a judgment described in Subsection (7) in any place and by any procedure that a civil judgment of the Utah Supreme Court may be collected or enforced if:

(a) a warrant is filed under this section against a person who is not a resident of this state; and

(b) the commission determines that the person does not have sufficient real or personal property in the state to pay the person's liability.

(11) After filing a warrant under Section 59-1-1414, the commission shall follow the notice requirements of Section 38-12-102.

Enacted by Chapter 212, 2009 General Session

59-1-1415. Release of lien.

The commission may release property from a lien placed under this part:

(1) if the commission determines that the interests of the state will not be jeopardized by the release; and

(2) under conditions the commission may require.

Enacted by Chapter 212, 2009 General Session

59-1-1416. Transferees.

(1) (a) If a transferee is obligated at law or equity for an amount of a liability of a person that originally owes a liability, the transferee is subject to this part for the assessment, payment, and collection of the amount of the liability for which the transferee has an obligation.

(b) The period of limitations for an assessment against a transferee is extended:

(i) subject to the other provisions of this section, by one year for each successive transfer:

(A) in the order of transfer; and

(B) beginning from the person that originally owes the liability to the transferee involved; and

(ii) by not more than three years in the aggregate.

(2) (a) Subject to Subsection (2)(b), if before the expiration of the period of limitations for assessment against a transferee, the commission files a claim in court against the person that originally owes the liability or the last preceding transferee, based upon the liability the person originally owes, the period of limitation for assessment against the transferee may not expire before one year after the claim is finally allowed, disallowed, or otherwise disposed of.

(b) (i) Subject to Subsection (2)(b)(ii), if before expiration of the time period described in Subsection (1)(b) or (2)(a) for an assessment against a transferee, the commission and the transferee agree in writing to an assessment after the time period described in Subsection (1)(b) or (2)(a), the commission may make an assessment against the transferee at any time before the expiration of the time period to which the commission and transferee agree in writing.

(ii) A time period that the commission and a transferee agree upon in writing in accordance with Subsection (2)(b)(i) may be extended by written agreement:

(A) between the commission and the transferee; and

(B) made before the expiration of the time period that the commission and the transferee previously agreed upon.

(c) An agreement described in Subsection (2)(b)(i) or an extension described in Subsection (2)(b)(ii) is considered to be an agreement or extension described in Section 59-1-1410 for purposes of determining the period of limitation on a credit or refund to a transferee of an overpayment of a liability:

(i) made by:

(A) the transferee; or

(B) the transferor; and

(ii) for which the transferee is allowed a credit or refund.

(d) If an agreement described in Subsection (2)(b)(i) or an extension described in Subsection (2)(b)(ii) is executed after the expiration of the period of limitation for assessment against the person that originally owes a liability, the time period in which a credit or refund may be claimed shall be increased by the time period:

(i) beginning on the date of the expiration of the period of limitation for assessment against the person that originally owes the liability; and

(ii) ending on the date the agreement described in Subsection (2)(b)(i) or the extension described in Subsection (2)(b)(ii) is executed.

(3) If the person that originally owes a liability is deceased, the period of limitation for assessment of a liability against that person is the period that would be in effect had the person lived.

(4) (a) Subject to Subsection (4)(b) and notwithstanding Section 59-1-403, the commission shall make available to a transferee information necessary to enable the transferee to determine the liability:

(i) of the person that originally owes the liability; or

(ii) a preceding transferee owes.

(b) The commission may not take an action under Subsection (4)(a) that imposes an undue hardship to the person that originally owes the liability or a preceding transferee.

Enacted by Chapter 212, 2009 General Session

59-1-1417. Burden of proof -- Statutory construction.

(1) In a proceeding before the commission, the burden of proof is on the petitioner except for determining the following, in which the burden of proof is on the commission:

(a) whether the petitioner committed fraud with intent to evade a tax, fee, or charge;

(b) whether the petitioner is obligated as the transferee of property of the person that originally owes a liability or a preceding transferee, but not to show that the person that originally owes a liability is obligated for the liability; and

(c) whether the petitioner is liable for an increase in a deficiency if the increase is asserted initially after a notice of deficiency is mailed in accordance with Section 59-1-1405 and a petition under Part 5, Petitions for Redetermination of Deficiencies, is filed, unless the increase in the deficiency is the result of a change or correction of federal taxable income:

(i) required to be reported; and

(ii) of which the commission has no notice at the time the commission mails the notice of deficiency.

(2) Regardless of whether a taxpayer has paid or remitted a tax, fee, or charge, the commission or a court considering a case involving the tax, fee, or charge shall:

(a) construe a statute imposing the tax, fee, or charge strictly in favor of the taxpayer; and

(b) construe a statute providing an exemption from or credit against the tax, fee, or charge strictly against the taxpayer.

Amended by Chapter 424, 2012 General Session

59-1-1418. Suspension of running of statute of limitations.

(1) The time period allowed for making an assessment or commencing a proceeding under Section 59-1-1410 shall be extended by the time period during which

the commission is prohibited by law from making an assessment or commencing a proceeding for collection, plus 60 days.

(2) The time period allowed for commencing a proceeding under Section 59-1-1410 shall be extended by the time period during which the commencement of the proceeding is stayed by injunction or statutory prohibition.

Enacted by Chapter 212, 2009 General Session

59-1-1419. Venue -- Section does not affect right to seek judicial review.

(1) If the commission commences a proceeding relating to the following, the venue is the Third District Court in Salt Lake City:

(a) failure to pay a liability;

(b) failure to file a return; or

(c) failure to supply information.

(2) Nothing in this section affects a right to seek judicial review in accordance with Part 6, Judicial Review.

Enacted by Chapter 212, 2009 General Session

59-1-1501. Title.

This part is known as the "Specie Legal Tender Act."

Amended by Chapter 399, 2012 General Session

59-1-1501.1. Definitions.

Subject to Subsection 59-1-1502(3), as used in this part, "specie legal tender" means gold or silver coin that is issued by the United States.

Enacted by Chapter 399, 2012 General Session

59-1-1502. Specie legal tender is legal tender in the state -- Person may not compel another person to tender or accept specie legal tender -- Court or congressional action to authorize gold or silver coin or bullion as legal tender.

(1) Specie legal tender is legal tender in the state.

(2) Except as expressly provided by contract, a person may not compel any other person to tender or accept specie legal tender.

(3) Gold or silver coin or bullion, other than gold or silver coin that is issued by the United States, is considered to be specie legal tender and is legal tender in the state if:

(a) a court of competent jurisdiction issues a final, unappealable judgment or order determining that the state may recognize the gold or silver coin or bullion, other than gold or silver coin that is issued by the United States, as legal tender in the state; or

(b) Congress enacts legislation that:

(i) expressly provides that the gold or silver coin or bullion, other than gold or

silver coin that is issued by the United States, is legal tender in the state; or

(ii) expressly allows the state to recognize the gold or silver coin or bullion, other than gold or silver coin that is issued by the United States, as legal tender in the state.

Amended by Chapter 399, 2012 General Session

59-1-1503. Nonrefundable credit -- Sales and use tax exemption -- Sales and use tax remittance.

(1) A nonrefundable individual income tax credit is allowed as provided in Section 59-10-1028 related to a capital gain on a transaction involving the exchange of one form of legal tender for another form of legal tender.

(2) Sales of currency or coin are exempt from sales and use taxes as provided in Subsection 59-12-104(50).

(3) The remittance of a sales and use tax on a transaction involving specie legal tender is as provided in Section 59-12-107.

Amended by Chapter 399, 2012 General Session

59-1-1505. Attorney general to enforce part.

The attorney general shall enforce this part.

Enacted by Chapter 399, 2012 General Session

59-1-1506. Severability clause.

If any provision of this part or the application of any provision to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this part shall be given effect without the invalid provision or application. The provisions of this part are severable.

Enacted by Chapter 399, 2012 General Session

59-1-1601. Title.

This part is known as the "Transparency of Ballot Propositions Act."

Enacted by Chapter 356, 2014 General Session

59-1-1602. Definitions.

As used in this part:

(1) (a) "Ballot proposition" means:

(i) an opinion question or other question concerning a tax increase submitted to voters for their approval or rejection; or

(ii) a question submitted to voters concerning the issuance of bonds under Section 11-14-103.

(b) "Ballot proposition" does not include an initiative or referendum authorized

under Title 20A, Chapter 7, Issues Submitted to the Voters.

(2) "Determination date" means the date of an election at which a ballot proposition is considered by voters.

(3) "Election officer" is as defined in Section 20A-1-102.

(4) "Eligible voter" means a person who:

(a) has registered to vote in accordance with Title 20A, Chapter 2, Voter Registration; and

(b) is a resident of a voting district or precinct within the taxing entity that is holding an election to consider a ballot proposition.

(5) "Governing body" is as defined in Section 59-2-102.

(6) "Tax increase" means:

(a) for a property tax, the imposition of a property tax rate or increase in a property tax rate if the imposition or increase is required to be submitted to voters for their approval or rejection; or

(b) for a sales and use tax imposed under Chapter 12, Sales and Use Tax Act, a sales and use tax rate that:

(i) is not currently imposed; or

(ii) exceeds the sales and use tax rate that is currently imposed.

(7) "Taxing entity" means:

(a) a taxing entity as defined in Section 59-2-102; or

(b) a county, city, or town authorized to impose a sales and use tax under Chapter 12, Sales and Use Tax Act.

Enacted by Chapter 356, 2014 General Session

59-1-1603. Applicability of part.

A taxing entity may not submit a ballot proposition unless the taxing entity complies with this part.

Enacted by Chapter 356, 2014 General Session

59-1-1604. Arguments for and against a ballot proposition -- Rebuttal arguments -- Posting arguments.

(1) (a) The governing body of a taxing entity shall submit to the election officer an argument in favor of a ballot proposition.

(b) (i) Any eligible voter may submit to the election officer an argument against the ballot proposition.

(ii) If two or more eligible voters wish to submit an argument under Subsection (1)(b)(i), the election officer shall designate one of the eligible voters to submit the argument described in Subsection (1)(b)(i).

(c) (i) Subject to Subsection (1)(c)(ii), the election officer shall ensure that each argument submitted under this Subsection (1):

(A) does not exceed 500 words in length; and

(B) is submitted not less than 60 days before the determination date.

(ii) The election officer shall ensure that each argument submitted under

Subsection (1)(b)(ii) is submitted not less than 50 days before the determination date.

(2) (a) When the election officer has received the arguments in favor of and against a ballot proposition, the election officer shall immediately send, via email or mail:

(i) a copy of the argument in favor of the ballot proposition to the author of the argument against the ballot proposition; and

(ii) a copy of the argument against the ballot proposition to the author of the argument in favor of the ballot proposition.

(b) (i) The author of the argument in favor of the ballot proposition may submit to the election officer a rebuttal argument directed to the argument against the ballot proposition.

(ii) The author of the argument against the ballot proposition may submit to the election officer a rebuttal argument directed to the argument in favor of the ballot proposition.

(c) The election officer shall ensure that each rebuttal argument submitted under Subsection (2)(b):

(i) does not exceed 250 words in length; and

(ii) is submitted not less than 40 days before the determination date.

(d) (i) An author of an argument described in Subsection (1) may designate a person to submit a rebuttal argument described in this Subsection (2).

(ii) A person designated in Subsection (2)(d)(i) shall be an eligible voter.

(3) A person submitting an argument under this section shall provide the election officer with:

(a) the person's name and address; and

(b) an email address by which the person may be contacted.

(4) (a) Except as provided in Subsection (4)(c), an author may not amend or change an argument or rebuttal argument after the argument or rebuttal argument is submitted to the election officer.

(b) Except as provided in Subsection (4)(c), the election officer may not alter an argument or rebuttal argument in any way.

(c) The election officer and an author of an argument may jointly modify an argument or a rebuttal argument after the argument or rebuttal argument is submitted if the election officer and the author jointly agree that changes to the argument or rebuttal argument must be made to correct spelling, factual, or grammatical errors.

(5) The governing body of a taxing entity shall:

(a) post the arguments and rebuttal arguments on the Statewide Electronic Voter Information Website as described in Section 20A-7-801 for 30 consecutive days before the determination date;

(b) if a taxing entity has a public website, post all arguments and rebuttal arguments in a prominent place on the taxing entity's public website for 30 consecutive days before the determination date; and

(c) if the taxing entity publishes a newsletter or other periodical, post all arguments and rebuttal arguments in the next scheduled newsletter or other periodical published before the determination date.

(6) For purposes of posting an argument and rebuttal argument under

Subsection (5), the governing body of a taxing entity shall ensure that:

(a) a rebuttal argument is posted in the same manner as a direct argument;

(b) each rebuttal argument follows immediately after the direct argument that it seeks to rebut; and

(c) information regarding the public meeting required by Section 59-1-1605 follows immediately after the posted arguments, including the date, time, and place of the public meeting.

Enacted by Chapter 356, 2014 General Session

59-1-1605. Public meeting requirements.

(1) The governing body of a taxing entity shall conduct a public meeting in accordance with this section no more than 14, but at least four, days before the determination date.

(2) The governing body of the taxing entity shall allow equal time, within a reasonable limit, for a presentation of the arguments:

(a) in favor of the ballot proposition; and

(b) against the ballot proposition.

(3) (a) A governing body of a taxing entity conducting a public meeting described in Subsection (1) shall provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(b) A taxing entity shall hold a public meeting described in this section beginning at or after 6 p.m.

(4) (a) A taxing entity shall provide a digital audio recording of a public meeting described in Subsection (1) no later than three days after the date of the public meeting.

(b) For purposes of providing the digital audio recording described in Subsection (4)(a), a governing body of a taxing entity shall:

(i) if a taxing entity has a public website, provide access to the digital audio recording described in Subsection (4)(a) on the taxing entity's public website; or

(ii) provide a digital copy of the recording described in Subsection (4)(a) to members of the public at the taxing entity's primary government office building.

Enacted by Chapter 356, 2014 General Session

59-2-101. Short title.

This chapter is known as the "Property Tax Act."

Enacted by Chapter 4, 1987 General Session

59-2-102 (Superseded 01/01/15). Definitions.

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the

aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation which requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(3) "Air contract service" means an air carrier operation available only to customers who engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" is as defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a school minimum basic tax rate, as specified in Subsection 53A-17a-135(1)(a), or multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) new growth, as defined in:

(I) Section 59-2-924; and

(II) rules of the commission; and

(B) the school minimum basic tax rate or multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (7), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission;

and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(8) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:

(i) a county; and

(ii) a school district.

(b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created by the overlapping boundaries of:

(i) the taxing entities described in Subsection (9)(a); and

(ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a) and the boundaries of the city or town are identical; or

(B) a special service district if the boundaries of the school district under Subsection (9)(a) are located entirely within the special service district.

(10) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months prior to the day on which the notice required by Section 59-2-919.1 is required to be mailed; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) $5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(11) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the

taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) Property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology is not "escaped property."

(12) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(13) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes; but does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records:

(A) of a taxpayer; and

(B) that are maintained for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income:

(I) that exceeds a normal rate of return on assets; and

(II) resulting from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) "Goodwill" does not include:
(i) the intangible property described in Subsection (20)(a) or (b);
(ii) locational attributes of real property, including:
(A) zoning;
(B) location;
(C) view;
(D) a geographic feature;
(E) an easement;
(F) a covenant;
(G) proximity to raw materials;
(H) the condition of surrounding property; or
(I) proximity to markets;
(iii) value attributable to the identification of an improvement to real property, including:
(A) reputation of the designer, builder, or architect of the improvement;
(B) a name given to, or associated with, the improvement; or
(C) the historic significance of an improvement; or
(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.
(17) "Governing body" means:
(a) for a county, city, or town, the legislative body of the county, city, or town;
(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;
(c) for a school district, the local board of education; or
(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:
(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or
(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.
(18) (a) For purposes of Section 59-2-103:
(i) "household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and
(ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."
(19) (a) Except as provided in Subsection (19)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:
(i) (A) attachment to land is essential to the operation or use of the item; and
(B) the manner of attachment to land suggests that the item will remain attached

to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (19)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (19)(a); and

(B) installed solely to serve the operation of the item described in Subsection (19)(a); and

(ii) an item described in Subsection (19)(a) that:

(A) is temporarily detached from the land for repairs; and

(B) remains located on the land.

(c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land:

(A) for stability only; or

(B) for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to:

(A) the land; or

(B) the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(20) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(2)(c).

(21) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under:

(i) Section 59-7-607; or

(ii) Section 59-10-1010.

(22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(24) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(25) (a) "Mobile flight equipment" means tangible personal property that is:

(i) owned or operated by an:

(A) air charter service;

(B) air contract service; or

(C) airline; and

(ii) (A) capable of flight;

(B) attached to an aircraft that is capable of flight; or

(C) contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(I) during multiple flights;

(II) during a takeoff, flight, or landing; and

(III) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated:

(A) at regular intervals; and

(B) with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(27) "Personal property" includes:

(a) every class of property as defined in Subsection (28) that is the subject of ownership and not included within the meaning of the terms "real estate" and "improvements";

(b) gas and water mains and pipes laid in roads, streets, or alleys;

(c) bridges and ferries;

(d) livestock, which, for the purposes of the exemption provided under Section 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(28) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(29) "Public utility," for purposes of this chapter, means the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use. Public utility also means the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(30) (a) Subject to Subsection (30)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (30) and Subsection (33).

(31) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(32) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code:

(a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and

(b) using the ownership rules of Subsection 267(c), Internal Revenue Code, for determining the ownership of stock.

(33) (a) Subject to Subsection (33)(b), "residential property," for the purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) Subject to Subsection (33)(c), "residential property":

(i) except as provided in Subsection (33)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) does not include property used for transient residential use.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (30) and this Subsection (33).

(34) "Split estate mineral rights owner" means a person who:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(35) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire which are specified in Subsection (8)(c) as county-assessed commercial vehicles.

(36) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(37) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(38) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(39) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll. It includes tax books, tax lists, and other similar materials.

Amended by Chapter 411, 2014 General Session

59-2-103 (Superseded 01/01/15). Rate of assessment of property -- Residential property.

(1) All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

(2) Subject to Subsections (3) and (4), beginning on January 1, 1995, the fair market value of residential property located within the state shall be reduced by 45%, representing a residential exemption allowed under Utah Constitution Article XIII, Section 2.

(3) No more than one acre of land per residential unit may qualify for the residential exemption.

(4) (a) Except as provided in Subsection (4)(b)(ii), beginning on January 1, 2005, the residential exemption in Subsection (2) is limited to one primary residence per household.

(b) An owner of multiple residential properties located within the state is allowed a residential exemption under Subsection (2) for:

(i) subject to Subsection (4)(a), the primary residence of the owner; and

(ii) each residential property that is the primary residence of a tenant.

Amended by Chapter 90, 2004 General Session
Amended by Chapter 281, 2004 General Session

59-2-103.5 (Superseded 01/01/15). Procedures to obtain an exemption for residential property -- Procedure if property owner or property no longer qualifies to receive a residential exemption.

(1) Subject to the other provisions of this section, a county legislative body may by ordinance require that in order for residential property to be allowed a residential exemption in accordance with Section 59-2-103, an owner of the residential property shall file with the county board of equalization a statement:

(a) on a form prescribed by the commission by rule;

(b) signed by all of the owners of the residential property;

(c) certifying that the residential property is residential property; and

(d) containing other information as required by the commission by rule.

(2) (a) Subject to Section 59-2-103 and except as provided in Subsection (3), a county board of equalization shall allow an owner described in Subsection (1) a residential exemption for the residential property described in Subsection (1) if:

(i) the county legislative body enacts the ordinance described in Subsection (1); and

(ii) the county board of equalization determines that the requirements of Subsection (1) are met.

(b) A county board of equalization may require an owner of the residential property described in Subsection (1) to file the statement described in Subsection (1) only if:

(i) that residential property was ineligible for the residential exemption authorized under Section 59-2-103 during the calendar year immediately preceding the calendar year for which the owner is seeking to claim the residential exemption for that residential property;

(ii) an ownership interest in that residential property changes; or

(iii) the county board of equalization determines that there is reason to believe that that residential property no longer qualifies for the residential exemption in accordance with Section 59-2-103.

(3) Notwithstanding Subsection (2)(a), if a county legislative body does not enact an ordinance requiring an owner to file a statement in accordance with this section, the county board of equalization:

(a) may not require an owner to file a statement for residential property to be eligible for a residential exemption in accordance with Section 59-2-103; and

(b) shall allow a residential exemption for residential property in accordance with Section 59-2-103.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing:

(i) the form for the statement described in Subsection (1); and

(ii) the contents of the form for the statement described in Subsection (1).

(b) The commission shall make the form described in Subsection (4)(a) available to counties.

(5) Except as provided in Subsection (6), if a property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for that property owner's primary residence, the property owner shall:

(a) file a written statement with the county board of equalization of the county in which the property is located:

(i) on a form provided by the county board of equalization; and

(ii) notifying the county board of equalization that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for that property owner's primary residence; and

(b) declare on the property owner's individual income tax return under Chapter 10, Individual Income Tax Act, for the taxable year for which the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for that property owner's primary residence, that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for that property owner's primary residence.

(6) A property owner is not required to file a written statement or make the declaration described in Subsection (5) if the property owner:

(a) changes primary residences;

(b) qualified to receive a residential exemption authorized under Section 59-2-103 for the residence that was the property owner's former primary residence; and

(c) qualifies to receive a residential exemption authorized under Section 59-2-103 for the residence that is the property owner's current primary residence.

(7) (a) Subsections (2) through (6) do not apply to qualifying exempt primary residential rental personal property.

(b) (i) For the first calendar year in which a taxpayer qualifies for an exemption described in Subsection (2), a county assessor may require the taxpayer to file a signed statement described in Section 59-2-306.

(ii) Notwithstanding Section 59-2-306, for a calendar year after the calendar

year described in Subsection (7)(b)(i) in which a taxpayer qualifies for an exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential rental personal property, a signed statement described in Section 59-2-306 with respect to the qualifying exempt primary residential rental personal property may only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for the exemption under Subsection 59-2-1115(2).

Amended by Chapter 19, 2013 General Session

59-2-104. Situs of property for tax purposes.

(1) The situs of all taxable property is the tax area where it is located.

(2) Personal property, unless assessed by the commission, shall be assessed in the tax area where the owner is domiciled in this state on January 1, unless the owner demonstrates to the satisfaction of the county assessor that the personal property is usually kept in a tax area other than that of the domicile of the owner, in which case that property shall be assessed in the other tax area.

(3) Land shall be assessed in parcels or subdivisions not exceeding 640 acres each, and tracts of land containing more than 640 acres, which have been sectioned by the United States government, shall be assessed by sections or fractions of sections.

(4) The following property shall be listed and assessed in the county where the property is located:

(a) public utilities, when operated wholly in one county;

(b) bridges and ferries which are not public utilities, when operated wholly in one county;

(c) electric light lines and similar improvements; and

(d) canals, ditches, and flumes when separately taxable.

Amended by Chapter 3, 1988 General Session

59-2-105. Situs of public utilities, bridges, ferries, and canals.

Public utilities, and bridges and ferries not public utilities, when operated wholly in one county, and electric light lines and similar improvements, canals, ditches, and flumes when separately taxable, shall be listed and assessed in the county in which the property is located.

Enacted by Chapter 4, 1987 General Session

59-2-107. Classes of personal property -- Rulemaking authority.

The commission shall make rules:

(1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(2) defining classes of items considered to be personal property for purposes of this chapter;

(3) defining items that fall into the classes established under Subsection (2); and

(4) defining any class or item as personal property if the commission defined that class or item as personal property prior to January 1, 2004, by:

(a) a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) a published decision of the commission; or

(c) an official schedule published by the commission.

Amended by Chapter 382, 2008 General Session

59-2-108. Election for assessment and taxation of noncapitalized personal property according to a schedule.

(1) As used in this section:

(a) (i) "Acquisition cost" means all costs required to put an item of tangible personal property into service; and

(ii) includes:

(A) the purchase price for a new or used item;

(B) the cost of freight and shipping;

(C) the cost of installation, engineering, erection, or assembly; and

(D) sales and use taxes.

(b) (i) "Item of taxable tangible personal property" does not include an improvement to real property or a part that will become an improvement.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "item of taxable tangible personal property."

(c) "Noncapitalized personal property" means an item of tangible personal property:

(i) that has an acquisition cost of $1,000 or less; and

(ii) with respect to which a deduction is allowed under Section 162 or Section 179, Internal Revenue Code, in the year of acquisition, regardless of whether a deduction is actually claimed.

(d) "Taxable tangible personal property" means tangible personal property that is subject to taxation under this chapter.

(2) (a) A person may make an election for the noncapitalized personal property owned by the person to be assessed and taxed as provided in this section.

(b) Except as provided in Subsection (2)(c), a county may not require a person who makes an election under this section to:

(i) itemize noncapitalized personal property on the signed statement described in Section 59-2-306; or

(ii) track noncapitalized personal property.

(c) If a person's noncapitalized personal property for which the person makes an election under this section is examined in accordance with Section 59-2-306, the person shall provide proof of the acquisition cost of the noncapitalized personal property.

(3) (a) An election under this section may not be revoked.

(b) Except as provided in Subsection (3)(d), if a person makes an election under

this section with respect to noncapitalized personal property, the person shall pay taxes on the noncapitalized personal property according to the schedule described in Subsection (4).

(c) If a person sells or otherwise disposes of an item of noncapitalized personal property for which the person makes an election under this section prior to the fourth year after acquisition, the person shall continue to pay taxes according to the schedule described in Subsection (4).

(d) If a person makes an election under this section for noncapitalized personal property acquired on or before December 31, 2012, at a time after the first year after acquisition, the person shall pay taxes according to the taxable value for the applicable one or more years after acquisition as determined by the schedule described in Subsection (4).

(e) If a person makes an election under this section, the person may not appeal the values described in Subsection (4).

(4) The taxable value of noncapitalized personal property for which a person makes an election under this section is calculated by applying the percent good factor against the acquisition cost of the noncapitalized personal property as follows:

Noncapitalized Personal Property Schedule

Year after Acquisition	Percent Good of Acquisition Cost
First year after acquisition	75%
Second year after acquisition	50%
Third year after acquisition	25%
Fourth year after acquisition	0%

Amended by Chapter 248, 2013 General Session

59-2-201. Assessment by commission -- Determination of value of mining property -- Notification of assessment -- Local assessment of property assessed by the unitary method.

(1) (a) By May 1 of each year the following property, unless otherwise exempt under the Utah Constitution or under Part 11, Exemptions, Deferrals, and Abatements, shall be assessed by the commission at 100% of fair market value, as valued on January 1, in accordance with this chapter:

(i) except as provided in Subsection (2), all property which operates as a unit across county lines, if the values must be apportioned among more than one county or state;

(ii) all property of public utilities;

(iii) all operating property of an airline, air charter service, and air contract service;

(iv) all geothermal fluids and geothermal resources;

(v) all mines and mining claims except in cases, as determined by the commission, where the mining claims are used for other than mining purposes, in which case the value of mining claims used for other than mining purposes shall be assessed by the assessor of the county in which the mining claims are located; and

(vi) all machinery used in mining, all property or surface improvements upon or appurtenant to mines or mining claims. For the purposes of assessment and taxation, all processing plants, mills, reduction works, and smelters which are primarily used by the owner of a mine or mining claim for processing, reducing, or smelting minerals taken from a mine or mining claim shall be considered appurtenant to that mine or mining claim, regardless of actual location.

(b) (i) For purposes of Subsection (1)(a)(iii), operating property of an air charter service does not include an aircraft that is:

(A) used by the air charter service for air charter; and

(B) owned by a person other than the air charter service.

(ii) For purposes of this Subsection (1)(b):

(A) "person" means a natural person, individual, corporation, organization, or other legal entity; and

(B) a person does not qualify as a person other than the air charter service as described in Subsection (1)(b)(i)(B) if the person is:

(I) a principal, owner, or member of the air charter service; or

(II) a legal entity that has a principal, owner, or member of the air charter service as a principal, owner, or member of the legal entity.

(2) The commission shall assess and collect property tax on state-assessed commercial vehicles at the time of original registration or annual renewal.

(a) The commission shall assess and collect property tax annually on state-assessed commercial vehicles which are registered pursuant to Section 41-1a-222 or 41-1a-228.

(b) State-assessed commercial vehicles brought into the state which are required to be registered in Utah shall, as a condition of registration, be subject to ad valorem tax unless all property taxes or fees imposed by the state of origin have been paid for the current calendar year.

(c) Real property, improvements, equipment, fixtures, or other personal property in this state owned by the company shall be assessed separately by the local county assessor.

(d) The commission shall adjust the value of state-assessed commercial vehicles as necessary to comply with 49 U.S.C. Sec. 14502, and the commission shall direct the county assessor to apply the same adjustment to any personal property, real property, or improvements owned by the company and used directly and exclusively in their commercial vehicle activities.

(3) The method for determining the fair market value of productive mining property is the capitalized net revenue method or any other valuation method the commission believes, or the taxpayer demonstrates to the commission's satisfaction, to be reasonably determinative of the fair market value of the mining property. The rate of capitalization applicable to mines shall be determined by the commission, consistent with a fair rate of return expected by an investor in light of that industry's current

market, financial, and economic conditions. In no event may the fair market value of the mining property be less than the fair market value of the land, improvements, and tangible personal property upon or appurtenant to the mining property.

(4) Immediately following the assessment, the owner or operator of the assessed property shall be notified of the assessment by certified mail. The assessor of the county in which the property is located shall also be immediately notified of the assessment by certified mail.

(5) Property assessed by the unitary method, which is not necessary to the conduct and does not contribute to the income of the business as determined by the commission, shall be assessed separately by the local county assessor.

(6) (a) Except as provided in Subsection (6)(b), for calendar years beginning on or after January 1, 2009 and ending on or before December 31, 2010, the method for determining the fair market value of an aircraft, aircraft type, or mobile flight equipment assessed under this part is equal to:

(i) the value referenced in the Used Price for Avg Acft Wholesale column of the Airliner Price Guide by make, model, series, and year of manufacture; minus

(ii) 20% of the value described in Subsection (6)(a)(i).

(b) Notwithstanding Subsection (6)(a), for calendar years beginning on or after January 1, 2009 and ending on or before December 1, 2010, the method for determining the fair market value of an aircraft not listed in the Airliner Price Guide is equal to:

(i) the value references in the Average Wholesale column of the Aircraft Bluebook Price Digest by make, model, series, and year of manufacture; minus

(ii) 20% of the value described in Subsection (6)(b)(i).

Amended by Chapter 226, 2009 General Session
Amended by Chapter 235, 2009 General Session

59-2-202. Statement of taxpayer -- Extension of time for filing -- Assessment without statement -- Penalty for failure to file statement or information -- Waiver, reduction, or compromise of penalty -- Appeals.

(1) (a) A person, or an officer or agent of that person, owning or operating property described in Subsection (1)(b) shall, on or before March 1 of each year, file with the commission a statement:

(i) signed and sworn to by the person, officer, or agent;

(ii) showing in detail all real property and tangible personal property located in the state that the person owns or operates;

(iii) containing the number of miles of taxable tangible personal property in each county:

(A) that the person owns or operates; and

(B) as valued on January 1 of the year for which the person, officer, or agent is furnishing the statement; and

(iv) containing any other information the commission requires.

(b) Subsection (1)(a) applies to:

(i) the following property located in the state:

(A) a public utility;
(B) an airline;
(C) an air charter service; or
(D) an air contract service; or
(ii) the following property located in more than one county in the state:
(A) a pipeline company;
(B) a power company;
(C) a canal company;
(D) an irrigation company; or
(E) a telephone company.

(c) (i) The commission may allow an extension for filing the statement under Subsection (1)(a) for a time period not exceeding 30 days, unless the commission determines that extraordinary circumstances require a longer period of extension.

(ii) The commission shall grant a person, or an officer or agent of that person, an extension for filing the statement under Subsection (1)(a) for a time period not exceeding 15 days if:

(A) a federal regulatory agency requires the taxpayer to file a statement that contains the same information as the statement under Subsection (1)(a); and

(B) the person, or an officer or agent of that person, requests the commission to grant the extension.

(2) The commission shall assess and list the property described in Subsection (1)(b) using the best information obtainable by the commission if a person, or an officer or agent of that person, fails to file the statement required under Subsection (1)(a) on or before the later of:

(a) March 1; or

(b) if the commission allows an extension under Subsection (1)(c) for filing the statement, the day after the last day of the extension period.

(3) (a) Except as provided in Subsection (3)(c), the commission shall assess a person a penalty as provided in Subsection (3)(b), if the person, or an officer or agent of that person, fails to file:

(i) the statement required under Subsection (1)(a) on or before the later of:

(A) March 1; or

(B) if the commission allows an extension under Subsection (1)(c) for filing the statement, the day after the last day of the extension period; or

(ii) any other information the commission determines to be necessary to:

(A) establish valuations for assessment purposes; or

(B) apportion an assessment.

(b) The penalty described in Subsection (3)(a) is an amount equal to the greater of:

(i) 10% of the person's estimated tax liability under this chapter for the current calendar year not to exceed $50,000; or

(ii) $100.

(c) (i) Notwithstanding Subsections (3)(a) and (4), the commission may waive, reduce, or compromise a penalty imposed under this section if the commission finds there are reasonable grounds for the waiver, reduction, or compromise.

(ii) If the commission waives, reduces, or compromises a penalty under Subsection (3)(c)(i), the commission shall make a record of the grounds for waiving, reducing, or compromising the penalty.

(4) The county treasurer shall collect the penalty imposed under Subsection (3) as provided in Section 59-2-1308.

(5) A person subject to a penalty under Subsection (3) may appeal the penalty according to procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

59-2-203. Record of assessment of railroads and other companies -- Review by county assessor.

(1) Each year the commission shall prepare a record of assessment of railroads and rail car companies. The record shall include:

(a) the name of the person to whom the property was assessed;

(b) the number of miles in the state;

(c) the number of miles in each county;

(d) the total assessment of that property; and

(e) the amount of the apportionment of the total assessment to each county.

(2) At least quarterly, the commission shall prepare a record of assessment of state-assessed commercial vehicles.

(3) The record of the assessment and the information upon which the assessments and apportionments are made are available for review upon request by a county assessor.

Amended by Chapter 360, 1997 General Session

59-2-204. Record of assessment of public utility and air travel companies -- Review by county assessor.

(1) Each year, the commission shall prepare a record of assessment of the following companies:

(a) public utility companies;

(b) airlines;

(c) air charter services; and

(d) air contract services.

(2) The record of assessment under Subsection (1) shall include:

(a) the name of each person engaged in business within the state in a company described in Subsection (1);

(b) for each company described in Subsection (1), the total value of all of the company's tangible and intangible properties; and

(c) any other information as determined by the commission.

(3) At the request of a county assessor, the commission shall provide to the county assessor:

(a) the record of assessment described in Subsection (1); and

(b) the information upon which the assessments and apportionments contained in the record of assessment are made.

Amended by Chapter 71, 1999 General Session

59-2-205. Record of assessment of mines -- Review by county assessor.

(1) Each year the commission shall prepare a record of assessment of mines. The record shall include the following information for all mines subject to assessment by the commission:

(a) the owner of the mine;

(b) the name and description and location of the mine;

(c) the county in which the mine is located;

(d) the value of the mine;

(e) the value of the machinery;

(f) the value of supplies and other personal property;

(g) the value of improvements; and

(h) the value of machinery, property, and surface improvements having a value separate and independent of the mines or mining claims assessed by the commission, and the names of the owners of the machinery, property, or surface improvements, together with any other information determined by the commission.

(2) The record of the assessment and the information upon which the assessments and apportionments are calculated are available for review upon request by a county assessor.

Enacted by Chapter 4, 1987 General Session

59-2-207. Statements for mines -- Penalty for failure to file statement or information -- Assessment without statement -- Penalty -- Waiver, reduction, or compromise of penalty -- Extension of time for filing statement -- Appeals.

(1) (a) A person, or an officer or agent of that person, owning or operating property described in Subsection (1)(b) shall file with the commission, on a form prescribed by the commission, a sworn statement on or before March 1 of each year:

(i) showing in detail all real property and tangible personal property located in the state that the person owns or operates; and

(ii) containing any other information the commission requires.

(b) Subsection (1)(a) applies to the following property:

(i) a mine;

(ii) a mining claim; or

(iii) a valuable mineral deposit, including lands containing coal or hydrocarbons.

(c) (i) The commission may allow an extension for filing the statement under Subsection (1)(a) for a time period not exceeding 30 days, unless the commission determines that extraordinary circumstances require a longer period of extension.

(ii) The commission shall grant a person, or an officer or agent of that person, an extension for filing the statement under Subsection (1)(a) for a time period not exceeding 15 days if:

(A) a federal regulatory agency requires the taxpayer to file a statement that contains the same information as the statement under Subsection (1)(a); and

(B) the person, or an officer or agent of that person, requests the commission to grant the extension.

(2) The commission shall assess and list the property described in Subsection (1)(b) using the best information obtainable by the commission if a person, or an officer or agent of that person, fails to file the statement required under Subsection (1)(a) on or before the later of:

(a) March 1; or

(b) if the commission allows an extension under Subsection (1)(c) for filing the statement, the day after the last day of the extension period.

(3) (a) Except as provided in Subsection (3)(c), the commission shall assess a person a penalty as provided in Subsection (3)(b), if the person, or an officer or agent of that person, fails to file:

(i) the statement required under Subsection (1)(a) on or before the later of:

(A) March 1; or

(B) if the commission allows an extension under Subsection (1)(c) for filing the statement, the day after the last day of the extension period; or

(ii) any other information the commission determines to be necessary to:

(A) establish valuations for assessment purposes; or

(B) apportion an assessment.

(b) The penalty described in Subsection (3)(a) is an amount equal to the greater of:

(i) 10% of the person's estimated tax liability under this chapter for the current calendar year not to exceed $50,000; or

(ii) $100.

(c) (i) Notwithstanding Subsections (3)(a) and (4), the commission may waive, reduce, or compromise a penalty imposed under this section if the commission finds there are reasonable grounds for the waiver, reduction, or compromise.

(ii) If the commission waives, reduces, or compromises a penalty under Subsection (3)(c)(i), the commission shall make a record of the grounds for waiving, reducing, or compromising the penalty.

(4) The county treasurer shall collect the penalty imposed under Subsection (3) as provided in Section 59-2-1308.

(5) A person subject to a penalty under Subsection (3) may appeal the penalty according to the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

59-2-208. Duties of commission and county auditors relative to mines.

The duties of the commission and county auditors relative to (1) the assessment of mines, mining claims, and mining property; (2) the statements and returns to be made; and (3) the equalization thereof are the same as those provided for the assessment of public utilities.

Enacted by Chapter 4, 1987 General Session

59-2-209. Assessment of improvements, machinery, or structures placed on mines.

Nothing in this chapter may be construed to exempt from taxation any supplies used in mills, reduction works, or mines, or any improvements, machinery, or other property placed upon or used in connection with a mine or mining claim, which has a value separate and independent of the mine or mining claim.

Enacted by Chapter 4, 1987 General Session

59-2-210. Collection and enforcement of tax on mines -- Lien -- Tax liability of owners of fractional interests -- Duties of unit operators -- Penalties.

(1) The tax mentioned in the preceding sections on mines, mining claims, and mining property shall be collected, and payment enforced, in the manner provided for the collection and enforcement of other taxes, except as provided in Subsection (3).

(2) Every tax is a lien upon the mine or mining claim and related mining machinery and improvements. The lien attaches on January 1. Sale of property for delinquent taxes may be made as provided for the sale of real estate for delinquent taxes, except as set forth below.

(3) (a) If oil, gas, or other hydrocarbon wells or fields belonging to multiple owners are operated as a unit, the owner of each fractional interest in the unit is liable for the same proportion of the tax assessed against the total unit that the owner's interest bears to the total interest in the unit.

(b) The unit operator shall be notified of the assessment against the entire unit as provided in Section 59-2-201. The operator shall collect the applicable tax from the owner of each fractional interest, and remit the tax assessed against the entire unit. The operator shall also file the statement described in Section 59-2-207 for the entire unit. The commission may require that the statement include a listing of all fractional interest owners and their interests.

(c) The unit operator may, in a manner provided by the commission, deduct and withhold from royalty payments, or from any other payments due to any fractional interest owner, the amount of the tax owed by the fractional interest owner.

(d) If the unit operator fails to collect the applicable tax from the fractional interest owners and remit the tax as provided, a penalty shall be imposed against the operator by the county treasurer of the county in which the unit is located. The penalty is equal to the amount of the tax due and owing the county for the tax period in question from that unit.

(e) Failure of the unit operator to collect and remit the tax does not preclude tax authorities from utilizing regular collection and enforcement remedies and procedures against the owner of any fractional interest to collect the tax owed by the owner. A nonoperating owner is not subject to penalty or interest upon the tax owed unless the owner fails to remit the tax within 20 days after notification by the county treasurer of the default of the operator.

(f) As used in this section, "unit" means any single oil, gas, or other hydrocarbon well or field which has multiple ownership, or any combination of oil, gas, or other hydrocarbon wells, fields, and properties consolidated into a single operation, whether by a formal agreement or otherwise. "Owner" means the holder of any interest or interests in those properties or units, including royalty interests.

Enacted by Chapter 4, 1987 General Session

59-2-211. Security for tax on uranium and vanadium mining properties.

(1) The commission, in order to ensure the payment and collection of an ad valorem property tax imposed against uranium and vanadium mining properties, may require the owner or the person engaged in mining the properties to deposit a security with the commission in an amount determined by the commission. The security shall be deposited with the commission within 30 days of proper notice by the commission that the security is required. Notice by registered mail to the last-known address as shown in the records of the commission constitutes proper notice.

(2) The security may be sold by the commission at public sale in order to recover any tax, interest, or penalty due. Notice of the sale may be personally served upon the person who deposited the securities, or served by registered mail sent to the last-known address as shown in the records of the commission. Following the sale, any surplus amount shall be returned to the person who deposited the security.

(3) If the security is not deposited on or before the due date, the commission may declare the tax for that year and any preceding year, if unpaid, in jeopardy, and may proceed to collect the tax under this chapter.

(4) Following recourse to the security by the commission, or to jeopardy proceedings under Part 13 of this chapter, the person engaged in using the properties shall deposit any new security required by the commission prior to resuming operations.

(5) The ad valorem tax imposed upon metalliferous mining claims and properties is a personal obligation of the owner or operator of the affected claims or properties, and the obligations are not satisfied until paid in full. If a mining claim or property is sold at the tax sale under Part 13 of this chapter, the sale does not extinguish the personal obligation of the owner or operator of the claim or property. The personal obligation continues to exist against the owner or operator of the claim or property until paid or otherwise satisfied. Other real or personal property of the owner or operator may be seized or sold to satisfy the personal obligation. This remedy is not exclusive but is in addition to any other remedy provided by law for the collection of these taxes. Nothing contained in this section abrogates existing powers of the commission or a county legislative body to compromise or adjust the assessment of taxes.

Amended by Chapter 181, 1995 General Session

59-2-212. Equalization of values -- Hearings.

(1) The commission shall adjust and equalize the valuation of the taxable

property in all counties of the state for the purpose of taxation; and may order or make an assessment or reassessment of any property which the commission determines has been overassessed or underassessed or which has not been assessed.

(2) If the commission intends to make an assessment or reassessment under this section, the commission shall give at least 15 days written notice of the time and place fixed for the determination of the assessment to the owner of the property and to the auditor of the county in which the property is located. Upon the date so fixed the commission shall assess or reassess the property and shall notify the county auditor of the assessment made, and every assessment has the same force and effect as if made by the county assessor before the delivery of the assessment book to the county treasurer.

(3) The county auditor shall record the assessment upon the assessment books in the same manner provided under Section 59-2-1011 in the case of a correction made by the county board of equalization, and no county board of equalization or assessor may change any assessment so fixed by the commission.

(4) All hearings upon assessments made or ordered by the commission pursuant to this section shall be held in the county in which the property involved is located.

(5) One or more members of the commission may conduct the hearing, and any assessment made after a hearing before any number of the members of the commission shall be as valid as if made after a hearing before the full commission.

Amended by Chapter 86, 2000 General Session

59-2-213. Duty to furnish assessment roll to counties.

(1) The commission shall prepare and furnish to each county an assessment roll in which the county assessor of each county shall list all property within the county.

(2) In counties using computerized listings, the county assessor shall furnish the information required under Subsection (1) pursuant to procedures established by the commission.

Amended by Chapter 3, 1988 General Session

59-2-214. Commission to furnish forms for taxpayers' statements.

(1) The commission shall furnish the assessor of each county with blank forms of statements provided under Section 59-2-306, affixing to the form a statement substantially as follows to be signed by the party completing the form:

I, ____, do swear that I am a resident of the county of ____, and that my post office address is ____; that the above list contains a full and correct statement of all property subject to taxation, which I, or any firm of which I am a member, or any corporation, association, or company of which I am president, cashier, secretary, or managing agent, owned, claimed, possessed, or controlled at 12 o'clock midnight on the preceding January 1 and which is not already assessed this year.

(2) The signed statement made on behalf of a firm or corporation shall state the principal place of business of the firm or corporation, and in other respects shall

conform substantially to the preceding form.

Amended by Chapter 86, 2000 General Session

59-2-215. Chief executive officer of state agency to furnish lists of sold lands.

On or before January 15 of each year the chief executive officer of any agency of the state shall make and transmit to the commission certified lists of lands sold by the state for which certificates of purchase or patents have been issued during the preceding year, giving a description by divisions or subdivisions or lots and blocks, together with the names of the purchasers or patentees, and in the case of lands sold by the state upon contract the amount of the purchase price and the total amount paid or due on the preceding January 1.

Amended by Chapter 299, 1995 General Session

59-2-216. Commission to furnish list of patented lands to county assessors.

The commission shall furnish the county assessors, annually, by February 1:

(1) a list of all patents of lands, except patents for mining locations, and all lands for which receivers' final receipts have been issued for which patents have not been issued, not previously reported;

(2) a certified list of all lands that have been sold by the state for which certificates of purchase or patents have been issued during the preceding year, with a description, together with the names of the purchasers or patentees; and

(3) a list containing a description of the lands sold by the state during the preceding year upon contracts for purchase, together with the names and addresses of the purchasers where known, the amount of the purchase price, and the total amount paid or due on the preceding January 1.

Enacted by Chapter 4, 1987 General Session

59-2-217. Property escaping assessment -- Duties of assessing authority -- Property willfully concealed -- Penalties.

(1) Any escaped property may be assessed by the original assessing authority at any time as far back as five years prior to the time of discovery, in which case the assessing authority shall enter the assessments on the tax rolls and follow the procedures established under Part 13 of this chapter.

(2) Any property found to be willfully concealed, removed, transferred, or misrepresented by its owner or agent in order to evade taxation is subject to a penalty equal to the tax on its value, and neither the penalty nor assessment may be reduced by the county board of equalization or the commission.

Enacted by Chapter 204, 1989 General Session

59-2-301. Assessment by county assessor.

The county assessor shall assess all property located within the county which is not required by law to be assessed by the commission.

Enacted by Chapter 4, 1987 General Session

59-2-301.1. Assessment of property subject to a conservation easement -- Assessment of golf course or hunting club.

(1) In assessing the fair market value of property subject to a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, a county assessor shall consider factors relating to the property and neighboring property that affect the fair market value of the property being assessed, including:

(a) value that transfers to neighboring property because of the presence of a conservation easement on the property being assessed;

(b) practical and legal restrictions on the development potential of the property because of the presence of the conservation easement;

(c) the absence of neighboring property similarly subject to a conservation easement to provide a basis for comparing values between properties; and

(d) any other factor that causes the fair market value of the property to be affected because of the presence of a conservation easement.

(2) (a) In assessing the fair market value of a golf course or hunting club, a county assessor shall consider factors relating to the golf course or hunting club and neighboring property that affect the fair market value of the golf course or hunting club, including:

(i) value that transfers to neighboring property because of the presence of the golf course or hunting club;

(ii) practical and legal restrictions on the development potential of the golf course or hunting club; and

(iii) the history of operation of the golf course or hunting club and the likelihood that the present use will continue into the future.

(b) The valuation method a county assessor may use in determining the fair market value of a golf course or hunting club includes:

(i) the cost approach;

(ii) the income capitalization approach; and

(iii) the sales comparison approach.

Amended by Chapter 157, 2011 General Session

59-2-301.2. Definitions -- Assessment of property subject to a minimum parcel size -- Other factors affecting fair market value.

(1) "Minimum parcel size" means the minimum size that a parcel of property may be divided into under a zoning ordinance adopted by a:

(a) county in accordance with Title 17, Chapter 27a, Part 5, Land Use Ordinances; or

(b) city or town in accordance with Title 10, Chapter 9a, Part 5, Land Use

Ordinances.

(2) In assessing the fair market value of a parcel of property that is subject to a minimum parcel size of one acre or more, a county assessor shall include as part of the assessment:

(a) that the parcel of property may not be subdivided into parcels of property smaller than the minimum parcel size; and

(b) any effects Subsection (2)(a) may have on the fair market value of the parcel of property.

(3) This section does not prohibit a county assessor from including as part of an assessment of the fair market value of a parcel of property any other factor affecting the fair market value of the parcel of property.

Amended by Chapter 254, 2005 General Session

59-2-301.3. Definitions -- Assessment of real property subject to a low-income housing covenant.

(1) As used in this section:

(a) "low-income housing covenant" means an agreement:

(i) between:

(A) the Utah Housing Corporation; and

(B) an owner of real property upon which residential rental housing is located; and

(ii) in which the owner described in Subsection (1)(a)(i)(B) agrees to limit the amount of rent that a renter may be charged for the residential rental housing; and

(b) "residential rental housing" means housing that:

(i) is used:

(A) for residential purposes; and

(B) as a primary residence; and

(ii) is rental property.

(2) A county assessor shall, in determining the fair market value of real property subject to a low-income housing covenant, take into account all relevant factors that affect the fair market value of the property, including:

(a) the information provided in Subsection (3); and

(b) any effects the low-income housing covenant may have on the fair market value of the real property.

(3) (a) Except as provided in Subsection (3)(b), to have a county assessor take into account a low-income housing covenant under Subsection (2), the owner of a property subject to a low-income housing covenant shall, by April 30 of each year, provide to the county assessor:

(i) a signed statement from the property owner that the project continues to meet the requirements of the low-income housing covenant;

(ii) a financial operating statement for the property for the prior year;

(iii) rent rolls for the property for the prior year; and

(iv) federal and commercial financing terms and agreements for the property.

(b) If the April 30 described in Subsection (3)(a) falls within the first twelve

months after a low-income housing operation begins on the property, a property owner shall provide estimates of the information required by Subsections (3)(a)(ii) through (iv).

(4) If the owner of a property subject to a low-income housing covenant fails to meet the requirements of Subsection (3):

(a) the assessor shall:

(i) make a record of the failure to meet the requirements of Subsection (3); and

(ii) make an estimate of the fair market value of the property in accordance with Subsection (2) based on information available to the assessor; and

(b) subject to Subsection (5), the owner shall pay a penalty equal to the greater of:

(i) $250; or

(ii) 5% of the tax due on the property for that year.

(5) (a) Only one penalty per year may be imposed per housing project subject to a low-income housing covenant.

(b) Upon making a record of the action, and upon reasonable cause shown, an assessor may waive, reduce, or compromise the penalty imposed under Subsection (4)(b).

Amended by Chapter 31, 2012 General Session

59-2-301.4. Definition -- Assessment of property after a reduction in value -- Other factors affecting fair market value -- County legislative body authority to reduce value or issue a refund after a valuation reduction.

(1) As used in this section, "valuation reduction" means a reduction in the value of property on appeal if that reduction was made:

(a) within the three years before the January 1 of the year in which the property is being assessed; and

(b) by a:

(i) county board of equalization in a final decision;

(ii) the commission in a final unappealable administrative order; or

(iii) a court of competent jurisdiction in a final unappealable judgment or order.

(2) In assessing the fair market value of property subject to a valuation reduction, a county assessor shall consider in the assessor's determination of fair market value:

(a) any additional information about the property that was previously unknown or unaccounted for by the assessor that is made known on appeal; and

(b) whether the reasons for the valuation reduction continue to influence the fair market value of the property.

(3) This section does not prohibit a county assessor from including as part of a determination of the fair market value of property any other factor affecting the fair market value of the property.

(4) (a) Subject to the other provisions of this Subsection (4), for a calendar year, a county legislative body may reduce the value of property, or issue a refund of property taxes paid, if:

(i) a county board of equalization, the commission, or a court of competent jurisdiction makes a valuation reduction with respect to the property;

(ii) the property is assessed in the next calendar year at a value that is at least five times greater than the value established at the time of the valuation reduction; and

(iii) the county legislative body determines that the assessed value described in Subsection (4)(a)(ii) exceeds fair market value.

(b) A county legislative body may make a reduction or refund under Subsection (4)(a) if an owner of the property:

(i) applies to the county legislative body; and

(ii) has not filed an appeal with the county board of equalization under Section 59-2-1004 or the commission under Section 59-2-1006 with respect to the property for the calendar year in which the owner applies to the county legislative body under Subsection (4)(b)(i).

(c) A reduction described in Subsection (4)(a):

(i) may be made if the property taxes have not been paid for the calendar year for which an owner applies to the county legislative body under Subsection (4)(b)(i); and

(ii) is in an amount to ensure that the property is assessed at fair market value.

(d) A refund described in Subsection (4)(a):

(i) may be made if the property taxes have been paid for the calendar year for which an owner applies to the county legislative body under Subsection (4)(b)(i); and

(ii) is in an amount to ensure that the property is taxed at a uniform and equal rate on the basis of its fair market value.

Amended by Chapter 248, 2013 General Session

59-2-301.5. Definitions -- Assessment of property if threatened or endangered species is present.

(1) As used in this section:

(a) "Endangered" is as defined in Section 23-13-2.

(b) "Threatened" is as defined in Section 23-13-2.

(2) In assessing the fair market value of property, a county assessor shall consider as part of the determination of fair market value whether a threatened or endangered species is present on any portion of the property, including any impacts the presence of the threatened or endangered species has on:

(a) the functionality of the property;

(b) the ability to use the property; and

(c) property rights.

(3) This section does not prohibit a county assessor from including as part of a determination of the fair market value of property any other factor affecting the fair market value of the property.

Enacted by Chapter 96, 2013 General Session

59-2-302. Basis of property taxation for political subdivision.

The assessments made by:

(1) the county assessor, as equalized by the county board of equalization and the commission; and

(2) the commission, as apportioned to each county, city, town, school, road, or other district in their respective counties, are the only basis of property taxation for political subdivisions of the state.

Amended by Chapter 360, 1997 General Session

59-2-303. General duties of county assessor.

(1) Prior to May 22 each year, the county assessor shall ascertain the names of the owners of all property which is subject to taxation by the county, and shall assess the property to the owner, claimant of record, or occupant in possession or control at 12 o'clock midnight of January 1 in the tax year, unless a subsequent conveyance of ownership of the real property was recorded in the office of the county recorder more than 14 calendar days before the date of mailing of the tax notice. In that case, any tax notice may be mailed, and the tax assessed, to the new owner. No mistake in the name or address of the owner or supposed owner of property renders the assessment invalid.

(2) A county assessor shall become fully acquainted with all property in his county, as provided in Section 59-2-301.

Amended by Chapter 245, 1993 General Session

59-2-303.1. Mandatory cyclical appraisals.

(1) For purposes of this section:

(a) "Corrective action" includes:

(i) factoring pursuant to Section 59-2-704;

(ii) notifying the state auditor that the county failed to comply with the requirements of this section; or

(iii) filing a petition for a court order requiring a county to take action.

(b) "Mass appraisal system" means a computer assisted mass appraisal system that:

(i) a county assessor uses to value real property; and

(ii) includes at least the following system features:

(A) has the ability to update all parcels of real property located within the county each year;

(B) can be programmed with specialized criteria;

(C) provides uniform and equal treatment of parcels within the same class of real property throughout the county; and

(D) annually updates all parcels of residential real property within the county using accepted valuation methodologies as determined by rule.

(c) "Property review date" means the date a county assessor completes a detailed review of the property characteristics of a parcel of real property in accordance with Subsection (3)(a).

(2) (a) The county assessor shall annually update property values of property as provided in Section 59-2-301 based on a systematic review of current market data.

(b) The county assessor shall conduct the annual update described in Subsection (2)(a) by using a mass appraisal system on or before the following:

(i) for a county of the first class, January 1, 2009;

(ii) for a county of the second class, January 1, 2011;

(iii) for a county of the third class, January 1, 2014; and

(iv) for a county of the fourth, fifth, or sixth class, January 1, 2015.

(c) The county assessor and the commission shall jointly certify that the county's mass appraisal system meets the requirements:

(i) described in Subsection (1)(b); and

(ii) of the commission.

(3) (a) In addition to the requirements in Subsection (2), the county assessor shall complete a detailed review of property characteristics for each property at least once every five years.

(b) The county assessor shall maintain on the county's computer system, a record of the last property review date for each parcel of real property located within the county assessor's county.

(4) (a) The commission shall take corrective action if the commission determines that:

(i) a county assessor has not satisfactorily followed the current mass appraisal standards, as provided by law;

(ii) the sales-assessment ratio, coefficients of dispersion, or other statistical measures of appraisal performance related to the studies required by Section 59-2-704 are not within the standards provided by law; or

(iii) the county assessor has failed to comply with the requirements of this section.

(b) If a county assessor fails to comply with the requirements of this section for one year, the commission shall assist the county assessor in fulfilling the requirements of Subsections (2) and (3).

(c) If a county assessor fails to comply with the requirements of this section for two consecutive years, the county will lose the county's allocation of the revenue generated statewide from the imposition of the multicounty assessing and collecting levy authorized in Sections 59-2-1602 and 59-2-1603.

(d) If a county loses its allocation of the revenue generated statewide from the imposition of the multicounty assessing and collecting levy described in Subsection (4)(c), the revenue the county would have received shall be distributed to the Multicounty Appraisal Trust created by interlocal agreement by all counties in the state.

(5) (a) On or before July 1, 2008, the county assessor shall prepare a five-year plan to comply with the requirements of Subsections (2) and (3).

(b) The plan shall be available in the county assessor's office for review by the public upon request.

(c) The plan shall be annually reviewed and revised as necessary.

(6) (a) A county assessor shall create, maintain, and regularly update a database containing the following information that the county assessor may use to

enhance the county's ability to accurately appraise and assess property on an annual basis:

(i) fee and other appraisals;

(ii) property characteristics and features;

(iii) property surveys;

(iv) sales data; and

(v) any other data or information on sales, studies, transfers, changes to property, or property characteristics.

(b) A county assessor shall submit a report to the commission on or before September 1 stating the progress of the county assessor to meet the requirements of Subsection (6)(a).

(c) The commission shall report to the Revenue and Taxation Interim Committee on or before the October interim meeting concerning the information received from the county assessors pursuant to Subsection (6)(b).

Amended by Chapter 131, 2010 General Session

59-2-305. Listing property in taxing entities.

The county assessor shall list all property in each taxing entity in the county by identifier and fair market value. The commission may prescribe procedures and formats, after consultation with affected state agencies and county assessors, which will provide reasonable uniformity and reduced costs in listing property.

Amended by Chapter 3, 1988 General Session

59-2-305.5. Boundary actions not effective for purposes of assessment until required documents are recorded.

(1) As used in this section:

(a) "Affected area" means:

(i) in the case of the creation or incorporation of a local entity, the area within the newly created local entity's boundary;

(ii) in the case of an annexation of an area into an existing local entity, the annexed area;

(iii) in the case of an adjustment of a boundary between local entities, the area that before the boundary adjustment was in the boundary of one local entity but becomes, because of the boundary adjustment, included within the boundary of another local entity;

(iv) in the case of the withdrawal or disconnection of an area from a local entity, the area that is withdrawn or disconnected;

(v) in the case of the consolidation of multiple local entities, the area within the boundary of the consolidated local entity;

(vi) in the case of the division of a local entity into multiple local entities, the area within the boundary of each new local entity created by the division; and

(vii) in the case of the dissolution of a local entity, the area that used to be within the former boundary of the dissolved local entity.

(b) "Applicable certificate" has the same meaning as defined in Section 67-1a-6.5.

(c) "Boundary action" has the same meaning as defined in Section 17-23-20.

(d) "Effective date" means the effective date, under applicable statute, of the boundary action that is the subject of an applicable certificate.

(e) "Local entity" has the same meaning as defined in Section 67-1a-6.5.

(f) "Required documents" means the documents relating to a boundary action that are required under applicable statute to be submitted to the county recorder for recording following the lieutenant governor's issuance of an applicable certificate.

(2) Notwithstanding the effective date, a boundary action is not effective for purposes of assessing under this part the property located within the affected area until the required documents are recorded in the office of the recorder of each county in which the affected area is located.

Enacted by Chapter 350, 2009 General Session

59-2-306. Statements by taxpayers -- Power of assessors respecting statements.

(1) (a) The county assessor may request a signed statement from any person setting forth all the real and personal property assessable by the assessor which is owned, possessed, managed, or under the control of the person at 12 noon on January 1.

(b) A request under Subsection (1)(a) shall include a notice of the procedure under Section 59-2-1005 for appealing the value of the personal property.

(2) (a) Except as provided in Subsection (2)(b) or (c), a signed statement described in Subsection (1) shall be filed on or before May 15 of the year the statement described in Subsection (1) is requested by the county assessor.

(b) For a county of the first class, the signed statement described in Subsection (1) shall be filed on the later of:

(i) 60 days after requested by the assessor; or

(ii) on or before May 15 of the year the statement described in Subsection (1) is requested by the county assessor if, by resolution, the county legislative body of that county adopts the deadline described in Subsection (2)(a).

(c) If a county assessor requests a signed statement described in Subsection (1) on or after March 16, the person shall file the signed statement within 60 days after requested by the assessor.

(3) The signed statement shall include the following:

(a) all property belonging to, claimed by, or in the possession, control, or management of the person, any firm of which the person is a member, or any corporation of which the person is president, secretary, cashier, or managing agent;

(b) the county in which the property is located or in which it is taxable; and, if taxable in the county in which the signed statement was made, also the city, town, school district, road district, or other taxing district in which it is located or taxable; and

(c) all lands in parcels or subdivisions not exceeding 640 acres each, the sections and fractional sections of all tracts of land containing more than 640 acres

which have been sectionized by the United States Government, and the improvements on those lands.

(4) Every assessor may subpoena and examine any person in any county in relation to any signed statement but may not require that person to appear in any county other than the county in which the subpoena is served.

Amended by Chapter 131, 2010 General Session

59-2-307. Refusal by taxpayer to file signed statement -- Penalty -- Assessor to estimate value -- Reporting information to other counties.

(1) (a) Each person who fails to file the signed statement required by Section 59-2-306, fails to file the signed statement with respect to name and place of residence, or fails to appear and testify when requested by the assessor, shall pay a penalty equal to 10% of the estimated tax due, but not less than $25 for each failure to file a signed and completed statement.

(b) Each penalty under Subsection (1)(a) shall be collected in the manner provided by Sections 59-2-1302 and 59-2-1303, except as otherwise provided for in this section, or by a judicial proceeding brought in the name of the assessor.

(c) All money recovered by any assessor under this section shall be paid into the county treasury.

(2) (a) The penalty imposed by Subsection (1)(a) may not be waived or reduced by the assessor, county, county Board of Equalization, or commission except pursuant to a procedure for the review and approval of reductions and waivers adopted by county ordinance, or by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) (i) Except as provided in Subsection (2)(b)(ii), a penalty under Subsection (1)(a) may be imposed on or after May 16 of the year the statement described in Section 59-2-306 is requested by the county assessor.

(ii) A penalty under Subsection (1)(a) may not be imposed until 30 days after the postmark date of mailing of a subsequent notice if the signed statement described in Section 59-2-306 is requested:

(A) on or after March 16; or

(B) by a county assessor of a county of the first class.

(3) (a) If an owner neglects or refuses to file a signed statement requested by an assessor as required under Section 59-2-306:

(i) the assessor shall:

(A) make a record of the failure to file; and

(B) make an estimate of the value of the property of the owner based on known facts and circumstances; and

(ii) the assessor of a county of the first class:

(A) shall make a subsequent request by mail for the signed statement, informing the owner of the consequences of not filing a signed statement; and

(B) may impose a fee for the actual and necessary expenses of the mailing under Subsection (3)(a)(ii)(A).

(b) The value fixed by the assessor in accordance with Subsection (3)(a)(i) may

not be reduced by the county board of equalization or by the commission.

(4) If the signed statement discloses property in any other county, the assessor shall file the signed statement and send a copy to the assessor of each county in which the property is located.

Amended by Chapter 163, 2011 General Session

59-2-308. Assessment in name of representative -- Assessment of property of decedents -- Assessment of property in litigation.

(1) If a person is assessed as agent, trustee, bailee, guardian, executor, or administrator, the representative designation shall be added to the name, and the assessment entered separately from the individual assessment.

(2) The undistributed or unpartitioned property of a deceased person may be assessed to an heir, guardian, executor, or administrator, and the payment of taxes binds all the parties in interest.

(3) Property in litigation which is in the possession of a court or receiver shall be assessed to the court clerk or receiver, and the taxes shall be paid under the direction of the court.

Enacted by Chapter 4, 1987 General Session

59-2-309. Property escaping assessment -- Duties of assessing authority -- Property willfully concealed -- Penalties.

(1) Any escaped property may be assessed by the original assessing authority at any time as far back as five years prior to the time of discovery, in which case the assessor shall enter the assessments on the tax rolls and follow the procedures established under Part 13 of this chapter.

(2) Any property found to be willfully concealed, removed, transferred, or misrepresented by its owner or agent in order to evade taxation is subject to a penalty equal to the tax on its value, and neither the penalty nor assessment may be reduced or waived by the assessor, county, county Board of Equalization, or the commission, except pursuant to a procedure for the review and approval of waivers adopted by county ordinance, or by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 382, 2008 General Session

59-2-310. Assessment in name of claimant as well as owner.

Real property described on the assessment book need not be described a second time, but any person claiming the real property and a desire to be assessed for the land may have the person's name inserted with that of the person to whom the real property is assessed.

Enacted by Chapter 4, 1987 General Session

59-2-311. Completion and delivery of assessment book -- Signed statement required -- Contents of signed statement -- Adjustment of assessment in assessment book.

(1) Prior to May 22 each year, the assessor shall complete and deliver the assessment book to the county auditor.

(2) The assessor shall subscribe and sign a statement in the assessment book substantially as follows:

I, ____, the assessor of ____ County, do swear that before May 22, _____(year), I made diligent inquiry and examination, and either personally or by deputy, established the value of all of the property within the county subject to assessment by me; that the property has been assessed on the assessment book equally and uniformly according to the best of my judgment, information, and belief at its fair market value; that I have faithfully complied with all the duties imposed on the assessor under the revenue laws including the requirements of Section 59-2-303.1; and that I have not imposed any unjust or double assessments through malice or ill will or otherwise, or allowed anyone to escape a just and equal assessment through favor or reward, or otherwise.

(3) Before completing and delivering the assessment book under Subsection (1), the assessor shall adjust the assessment of property in the assessment book to reflect an adjustment in the taxable value of any property if the adjustment in taxable value is made:

(a) by the county board of equalization under Section 59-2-1004.5; and

(b) on or before May 15.

Amended by Chapter 182, 2005 General Session

59-2-313. Assessor to furnish information to commission.

The county assessor shall furnish to the commission, promptly upon demand, any information it may require as to the several kinds of personal and real property, and the taxable value of those properties, which are located in the county.

Amended by Chapter 3, 1988 General Session

59-2-314. Penalty for failure to complete assessment book.

Any assessor who fails to complete and deliver the assessment book to the county auditor within the time prescribed by law, or who fails to transmit the information required under Section 59-2-313 to the commission, shall pay a penalty of $1,000, to be recovered on the assessor's official bond, for the use of the county, or deducted from salary by the county legislative body.

Amended by Chapter 227, 1993 General Session

59-2-315. Liability for willful failure or neglect of duty -- Action on official bond -- Judgment.

(1) The assessor and sureties are liable on the official bond for all taxes on

property within the county which, through willful failure or neglect, is not assessed or which has been willfully assessed at less than its fair market value.

(2) The county attorney shall, upon showing of proper evidence and upon written demand by the commission or the county legislative body, commence and prosecute to judgment an action upon the assessor's bond for all taxes lost from willful failure or neglect in assessing property.

(3) If, during the trial of the action against the assessor, the value of the unassessed or underassessed property is determined, the assessor is liable for the difference between the amount of taxes collected and the amount of taxes which should have been collected pursuant to law.

Amended by Chapter 227, 1993 General Session

59-2-320. Total property valuation.

The county auditor shall add the valuations, and enter the total valuation of each kind of property, and the total valuation of all property, on the assessment book. In the appropriate column the total acreage of the county shall be shown.

Renumbered and Amended by Chapter 4, 1987 General Session

59-2-321. Extension of taxes on assessment book.

(1) The property taxes of each city, town, school, and special taxing district shall be extended on the assessment book by the county auditor at the rate certified by the governing body of the city, town, school, and special taxing district at the time the state and county taxes are extended.

(2) The whole tax shall be carried into a column of aggregates, and shall be collected by the county treasurer at the time and in the manner provided by law for collecting state and county taxes.

Amended by Chapter 271, 1995 General Session

59-2-322. Transmittal of statement to commission.

(1) The county auditor shall, before June 8 of each year, prepare from the assessment book of that year a statement showing in separate columns:

(a) the total value of all property;

(b) the value of real estate, including patented mining claims, stated separately;

(c) the value of the improvements;

(d) the value of personal property exclusive of money; and

(e) the number of acres of land and the number of patented mining claims, stated separately.

(2) As soon as the statement is prepared the county auditor shall transmit the statement to the commission.

Amended by Chapter 86, 2000 General Session

59-2-323. Changes ordered by commission.

(1) The commission shall, before June 17 or within 10 days after the county auditors of the state have filed their report with the commission as provided for under Section 59-2-322, each year transmit to the county auditor a statement of the changes made by it in the assessment book of the county, as provided under Section 59-1-210.

(2) As soon as the county auditor receives from the commission a statement of the changes made by it in the assessment book of the county, or of any assessment contained therein, the auditor shall make the corresponding changes in the assessment book, by entering the same in a column provided with the proper heading in the assessment book, counting any fractional sum when more than 50 cents as one dollar and omitting it when less than 50 cents, so that the value of any separate assessment shall contain no fractions of a dollar; but shall in all cases disregard any action of the county board of equalization or commission which is prohibited by law.

Amended by Chapter 148, 1987 General Session

59-2-324. Entering corrected sum of taxes in assessment book.

The county auditor shall then compute, and enter in a separate money column in the assessment book, the aggregate sum in dollars and cents to be paid as taxes on the property enumerated in the book. Taxes levied only on a certain kind or class of property for a special purpose, other than for state, county, city, town, and school purposes, etc., shall be separately set out, and shall foot up the column showing the total amount of the taxes, and the column of total value of property in the county, as corrected by the commission.

Renumbered and Amended by Chapter 4, 1987 General Session

59-2-325. Statement transmitted to commission and state auditor.

The county auditor shall, before November 1 of each year, prepare from the assessment rolls of that year a statement showing the amount and value of all property in the county, as classified by the county assessment rolls, and the value of each class; the total amount of taxes remitted by the county board of equalization; the state's share of the taxes remitted; the county's share of the taxes remitted; the rate of county taxes; and any other information requested by the state auditor. The statement shall be made in duplicate, upon forms provided by the state auditor, and as soon as prepared shall be transmitted, one copy to the state auditor and one copy to the commission.

Amended by Chapter 86, 2000 General Session

59-2-326. Assessment roll delivered to county treasurer.

Before November 1, the county auditor must deliver the corrected assessment roll to the county treasurer, together with a signed statement subscribed by him in a form substantially as follows:

I, ____ county auditor of the county of ____, do swear that I received the accompanying assessment roll of the taxable property of the county from the assessor,

and that I have corrected it and made it conform to the requirements of the county board of equalization and commission, that I have reckoned the respective sums due as taxes and have added up the columns of valuations, taxes, and acreage as required by law.

Amended by Chapter 86, 2000 General Session

59-2-327. Assessment roll -- Taxes charged to county treasurer.

(1) The county auditor shall deliver the assessment roll, with the taxes extended, all orders of the county board of equalization and commission posted, and all relief granted, prior to the time prescribed in Section 59-2-1317 for providing the original tax notice, to the county treasurer, together with a report of the accumulated total, which shall be considered to be a preliminary taxes charged amount.

(2) After delivering the corrected assessment roll to the county treasurer, under Section 59-2-326, the county auditor shall charge the treasurer with the full amount of taxes levied, except the taxes of rail car companies and state-assessed commercial vehicles, in an account established for the purpose.

(3) The county auditor shall either report the final taxes charged or report the adjustments in taxable value and tax amounts from the preliminary taxes charged amount to the county treasurer for use in settling with all taxing entities under Section 59-2-1365.

Amended by Chapter 279, 2014 General Session

59-2-328. Duty of auditor upon termination of treasurer's term of office.

If the assessment book or the delinquent tax list is transferred from one treasurer to another, the county auditor shall credit the one and charge the other with the amount of taxes then outstanding.

Renumbered and Amended by Chapter 4, 1987 General Session

59-2-329. Verification of auditor's statements.

The county auditor shall verify all statements made by the auditor under the provisions of this title and attach a signed statement of verification.

Amended by Chapter 86, 2000 General Session

59-2-330 (Repealed 01/01/15). Campers -- Registration certificates and decals obtained from county assessor -- Contents of certificates.

(1) Numbered camper registration certificates and camper decals shall be obtained at no cost from the county assessor of the county where the camper has situs for purposes of taxation after it is assessed and the property tax paid.

(2) Certificates of registration shall contain the name and address of the owner of the camper, its make, model and identification number; and statement of any liens or encumbrances together with any other information deemed necessary.

Renumbered and Amended by Chapter 1, 1992 General Session
Repealed by Chapter 61, 2014 General Session

59-2-401. Assessment of transitory personal property.

If any taxable personal property is brought into a county from another county of this state at any time after January 1, and the property has not been assessed for that year, it shall be listed and assessed the same as if it had been in the county at the time of the regular assessment. The county assessor shall enter the assessment on the tax rolls in the hands of the county treasurer or elsewhere, and if made after the assessment book has been delivered to the county treasurer, the assessment shall be reported by the assessor to the county auditor, and the auditor shall charge the assessor with the taxes on the property. The assessor shall notify the person assessed and immediately proceed to secure or collect the taxes as provided under Part 13 of this chapter.

Enacted by Chapter 4, 1987 General Session

59-2-402. Proportional assessment of transitory personal property brought from outside state -- Exemptions -- Reporting requirements -- Penalty for failure to file report -- Claims for rebates and adjustments.

(1) If any taxable transitory personal property, other than property exempted under Subsection (2), is brought into the state at any time after the assessment date, a proportional assessment shall be made in accordance with rules adopted by the commission based upon the length of time that the property is in the state, but in no event may the minimum assessment be less than 25% of the full year's assessment.

(2) The following property is exempt from proportional assessment under Subsection (1) for the year in which the license fee or tax is paid:

(a) property acquired during the calendar year;

(b) registered motor vehicles with a gross laden weight of 27,000 pounds or less;

(c) vehicles that are registered and licensed in another state;

(d) property subject to the provisions of Subsection 59-2-405(4);

(e) state-assessed commercial vehicles; and

(f) a motor home that is:

(i) brought into the state for the sole purpose of selling the motor home to a licensed dealer; and

(ii) purchased for resale by a person licensed as a dealer under Section 41-3-201.

(3) If any taxable transitory personal property is brought into the state at any time during the year, the owner of the property, or the owner's agent, shall immediately secure a personal property report form from the assessor, complete it in all pertinent respects, sign it, and file it with the assessor of the county in which the property is located.

(4) If the owner of the taxable transitory personal property, or the owner's agent,

fails to secure, complete, and file a personal property report form with the county assessor, the assessor shall estimate the value of the property in accordance with Section 59-2-307. Any failure on the part of the owner or agent to report as required by this subsection subjects the property owner to a penalty of 50% of the amount of tax finally determined to be due.

(5) An owner of taxable transitory personal property, except motor vehicles with a gross laden weight of 27,000 pounds or less, who has paid taxes on the personal property and who removes the property from the state prior to December, is entitled to a rebate of a proportionate share of the taxes paid as determined by the commission. If a claim for rebate or adjustments is filed with the county auditor by December 10, the auditor shall immediately submit the claim with a recommendation to the county executive for its approval or denial. If the claim is not approved prior to the end of the calendar year, or within 30 days after its submission, or if the claim is submitted after December 10, it shall be considered denied, and the owners of the property may file an action in the district court for a refund or an adjustment.

Amended by Chapter 210, 2007 General Session

59-2-403. Assessment of interstate state-assessed commercial vehicles -- Apportionment.

When assessing state-assessed commercial vehicles covering interstate routes, the commission shall apportion the assessment for the rolling stock used in interstate commerce at the same percentage ratio that has been filed with the Motor Vehicle Division of the commission for determining the proration of registration fees.

Amended by Chapter 360, 1997 General Session

59-2-404. Uniform fee on aircraft -- Collection of fee by commission -- Distribution of fees.

(1) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6), beginning on January 1, 2009, an aircraft, required to be registered with the state is:

(a) exempt from the tax imposed by Section 59-2-103; and

(b) in lieu of the tax imposed by Section 59-2-103, subject to a uniform statewide fee of $25.

(2) (a) The uniform fee shall be collected by the commission with the registration fee and distributed to the county in which the aircraft is based.

(b) A based aircraft is an aircraft which is hangared, tied down, or parked at the airport for a plurality of the year.

(3) (a) The uniform fees received by a county under Subsection (2) shall be distributed to each taxing entity within the county in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(b) Each taxing entity described in Subsection (3)(a) that receives revenues from the uniform fee imposed by this section shall distribute the revenues in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(4) The commission shall promulgate rules to implement this section.

Amended by Chapter 206, 2008 General Session

59-2-405. Uniform fee on tangible personal property required to be registered with the state -- Distribution of revenues -- Appeals.

(1) The property described in Subsection (2), except Subsection (2)(b)(ii), is exempt from ad valorem property taxes pursuant to Utah Constitution Article XIII, Section 2, Subsection (6).

(2) (a) Except as provided in Subsection (2)(b), there is levied as provided in this part a statewide uniform fee in lieu of the ad valorem tax on:

(i) motor vehicles required to be registered with the state that weigh 12,001 pounds or more;

(ii) motorcycles as defined in Section 41-1a-102 that are required to be registered with the state;

(iii) watercraft required to be registered with the state;

(iv) recreational vehicles required to be registered with the state; and

(v) all other tangible personal property required to be registered with the state before it is used on a public highway, on a public waterway, on public land, or in the air.

(b) The following tangible personal property is exempt from the statewide uniform fee imposed by this section:

(i) aircraft;

(ii) state-assessed commercial vehicles;

(iii) tangible personal property subject to a uniform fee imposed by:

(A) Section 59-2-405.1;

(B) Section 59-2-405.2; or

(C) Section 59-2-405.3; and

(iv) personal property that is exempt from state or county ad valorem property taxes under the laws of this state or of the federal government.

(3) Beginning on January 1, 1999, the uniform fee is 1.5% of the fair market value of the personal property, as established by the commission.

(4) Notwithstanding Section 59-2-407, property subject to the uniform fee that is brought into the state and is required to be registered in Utah shall, as a condition of registration, be subject to the uniform fee unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(5) (a) The revenues collected in each county from the uniform fee shall be distributed by the county to each taxing entity in which the property described in Subsection (2) is located in the same proportion in which revenue collected from ad valorem real property tax is distributed.

(b) Each taxing entity shall distribute the revenues received under Subsection (5)(a) in the same proportion in which revenue collected from ad valorem real property tax is distributed.

(6) An appeal relating to the uniform fee imposed on the tangible personal property described in Subsection (2) shall be filed pursuant to Section 59-2-1005.

Amended by Chapter 210, 2008 General Session

59-2-405.1. Uniform fee on certain vehicles weighing 12,000 pounds or less -- Distribution of revenues -- Appeals.

(1) The property described in Subsection (2) is exempt from ad valorem property taxes pursuant to Utah Constitution Article XIII, Section 2, Subsection (6).

(2) (a) Except as provided in Subsection (2)(b), there is levied as provided in this part a statewide uniform fee in lieu of the ad valorem tax on:

(i) motor vehicles as defined in Section 41-1a-102 that:

(A) are required to be registered with the state; and

(B) weigh 12,000 pounds or less; and

(ii) state-assessed commercial vehicles required to be registered with the state that weigh 12,000 pounds or less.

(b) The following tangible personal property is exempt from the statewide uniform fee imposed by this section:

(i) aircraft;

(ii) tangible personal property subject to a uniform fee imposed by:

(A) Section 59-2-405;

(B) Section 59-2-405.2; or

(C) Section 59-2-405.3; and

(iii) tangible personal property that is exempt from state or county ad valorem property taxes under the laws of this state or of the federal government.

(3) (a) Except as provided in Subsections (3)(b) and (c), beginning on January 1, 1999, the uniform fee for purposes of this section is as follows:

Age of Vehicle	Uniform Fee
12 or more years	$10
9 or more years but less than 12 years	$50
6 or more years but less than 9 years	$80
3 or more years but less than 6 years	$110
Less than 3 years	$150

(b) For registrations under Section 41-1a-215.5, the uniform fee for purposes of this section is as follows:

Age of Vehicle	Uniform Fee
12 or more years	$7.75
9 or more years but less than 12 years	$38.50
6 or more years but less than 9 years	$61.50
3 or more years but less than 6 years	$84.75
Less than 3 years	$115.50

(c) Notwithstanding Subsections (3)(a) and (b), beginning on September 1, 2001, for a motor vehicle issued a temporary sports event registration certificate in

accordance with Section 41-3-306, the uniform fee for purposes of this section is $5 for the event period specified on the temporary sports event registration certificate regardless of the age of the motor vehicle.

(4) Notwithstanding Section 59-2-407, property subject to the uniform fee that is brought into the state and is required to be registered in Utah shall, as a condition of registration, be subject to the uniform fee unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(5) (a) The revenues collected in each county from the uniform fee shall be distributed by the county to each taxing entity in which the property described in Subsection (2) is located in the same proportion in which revenue collected from ad valorem real property tax is distributed.

(b) Each taxing entity shall distribute the revenues received under Subsection (5)(a) in the same proportion in which revenue collected from ad valorem real property tax is distributed.

Amended by Chapter 397, 2012 General Session

59-2-405.2 (Superseded 01/01/15). Definitions -- Uniform statewide fee on certain tangible personal property -- Distribution of revenues -- Rulemaking authority -- Determining the length of a vessel.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "all-terrain vehicle" means a motor vehicle that:

(A) is an:

(I) all-terrain type I vehicle as defined in Section 41-22-2; or

(II) all-terrain type II vehicle as defined in Section 41-22-2;

(B) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway Vehicles; and

(C) has:

(I) an engine with more than 150 cubic centimeters displacement;

(II) a motor that produces more than five horsepower; or

(III) an electric motor; and

(ii) notwithstanding Subsection (1)(a)(i), "all-terrain vehicle" does not include a snowmobile.

(b) "Camper" means a camper:

(i) as defined in Section 41-1a-102; and

(ii) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration.

(c) (i) "Canoe" means a vessel that:

(A) is long and narrow;

(B) has curved sides; and

(C) is tapered:

(I) to two pointed ends; or

(II) to one pointed end and is blunt on the other end; and

(ii) "canoe" includes:

(A) a collapsible inflatable canoe;
(B) a kayak;
(C) a racing shell;
(D) a rowing scull; or
(E) notwithstanding the definition of vessel in Subsection (1)(aa), a canoe with an outboard motor.
(d) "Dealer" is as defined in Section 41-1a-102.
(e) "Jon boat" means a vessel that:
(i) has a square bow; and
(ii) has a flat bottom.
(f) "Motor vehicle" is as defined in Section 41-22-2.
(g) "Other motorcycle" means a motor vehicle that:
(i) is:
(A) a motorcycle as defined in Section 41-1a-102; and
(B) designed primarily for use and operation over unimproved terrain;
(ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and
(iii) has:
(A) an engine with more than 150 cubic centimeters displacement; or
(B) a motor that produces more than five horsepower.
(h) (i) "Other trailer" means a portable vehicle without motive power that is primarily used:
(A) to transport tangible personal property; and
(B) for a purpose other than a commercial purpose; and
(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(h)(i)(B), the commission may by rule define what constitutes a purpose other than a commercial purpose.
(i) "Outboard motor" is as defined in Section 41-1a-102.
(j) "Personal watercraft" means a personal watercraft:
(i) as defined in Section 73-18-2; and
(ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.
(k) (i) "Pontoon" means a vessel that:
(A) is:
(I) supported by one or more floats; and
(II) propelled by either inboard or outboard power; and
(B) is not:
(I) a houseboat; or
(II) a collapsible inflatable vessel; and
(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "houseboat."
(l) "Qualifying adjustment, exemption, or reduction" means an adjustment, exemption, or reduction:
(i) of all or a portion of a qualifying payment;
(ii) granted by a county during the refund period; and

(iii) received by a qualifying person.
(m) (i) "Qualifying payment" means the payment made:
(A) of a uniform statewide fee in accordance with this section:
(I) by a qualifying person;
(II) to a county; and
(III) during the refund period; and
(B) on an item of qualifying tangible personal property; and
(ii) if a qualifying person received a qualifying adjustment, exemption, or reduction for an item of qualifying tangible personal property, the qualifying payment for that qualifying tangible personal property is equal to the difference between:
(A) the payment described in this Subsection (1)(m) for that item of qualifying tangible personal property; and
(B) the amount of the qualifying adjustment, exemption, or reduction.
(n) "Qualifying person" means a person that paid a uniform statewide fee:
(i) during the refund period;
(ii) in accordance with this section; and
(iii) on an item of qualifying tangible personal property.
(o) "Qualifying tangible personal property" means a:
(i) qualifying vehicle; or
(ii) qualifying watercraft.
(p) "Qualifying vehicle" means:
(i) an all-terrain vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;
(ii) an other motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;
(iii) a small motor vehicle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters;
(iv) a snowmobile with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters; or
(v) a street motorcycle with an engine displacement that is 100 or more cubic centimeters but 150 or less cubic centimeters.
(q) "Qualifying watercraft" means a:
(i) canoe;
(ii) collapsible inflatable vessel;
(iii) jon boat;
(iv) pontoon;
(v) sailboat; or
(vi) utility boat.
(r) "Refund period" means the time period:
(i) beginning on January 1, 2006; and
(ii) ending on December 29, 2006.
(s) "Sailboat" means a sailboat as defined in Section 73-18-2.
(t) (i) "Small motor vehicle" means a motor vehicle that:
(A) is required to be registered in accordance with Title 41, Motor Vehicles; and
(B) has:

(I) an engine with 150 or less cubic centimeters displacement; or
(II) a motor that produces five or less horsepower; and
(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule develop a process for an owner of a motor vehicle to certify whether the motor vehicle has:
(A) an engine with 150 or less cubic centimeters displacement; or
(B) a motor that produces five or less horsepower.
(u) "Snowmobile" means a motor vehicle that:
(i) is a snowmobile as defined in Section 41-22-2;
(ii) is required to be registered in accordance with Title 41, Chapter 22, Off-Highway Vehicles; and
(iii) has:
(A) an engine with more than 150 cubic centimeters displacement; or
(B) a motor that produces more than five horsepower.
(v) "Street motorcycle" means a motor vehicle that:
(i) is:
(A) a motorcycle as defined in Section 41-1a-102; and
(B) designed primarily for use and operation on highways;
(ii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and
(iii) has:
(A) an engine with more than 150 cubic centimeters displacement; or
(B) a motor that produces more than five horsepower.
(w) "Tangible personal property owner" means a person that owns an item of qualifying tangible personal property.
(x) "Tent trailer" means a portable vehicle without motive power that:
(i) is constructed with collapsible side walls that:
(A) fold for towing by a motor vehicle; and
(B) unfold at a campsite;
(ii) is designed as a temporary dwelling for travel, recreational, or vacation use;
(iii) is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and
(iv) does not require a special highway movement permit when drawn by a self-propelled motor vehicle.
(y) (i) Except as provided in Subsection (1)(y)(ii), "travel trailer" means a travel trailer:
(A) as defined in Section 41-1a-102; and
(B) that is required to be registered in accordance with Title 41, Chapter 1a, Part 2, Registration; and
(ii) notwithstanding Subsection (1)(y)(i), "travel trailer" does not include:
(A) a camper; or
(B) a tent trailer.
(z) (i) "Utility boat" means a vessel that:
(A) has:
(I) two or three bench seating;

(II) an outboard motor; and
(III) a hull made of aluminum, fiberglass, or wood; and
(B) does not have:
(I) decking;
(II) a permanent canopy; or
(III) a floor other than the hull; and
(ii) notwithstanding Subsection (1)(z)(i), "utility boat" does not include a collapsible inflatable vessel.
(aa) "Vessel" means a vessel:
(i) as defined in Section 73-18-2, including an outboard motor of the vessel; and
(ii) that is required to be registered in accordance with Title 73, Chapter 18, State Boating Act.
(2) (a) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6), beginning on January 1, 2006, the tangible personal property described in Subsection (2)(b) is:
(i) exempt from the tax imposed by Section 59-2-103; and
(ii) in lieu of the tax imposed by Section 59-2-103, subject to uniform statewide fees as provided in this section.
(b) The following tangible personal property applies to Subsection (2)(a) if that tangible personal property is required to be registered with the state:
(i) an all-terrain vehicle;
(ii) a camper;
(iii) an other motorcycle;
(iv) an other trailer;
(v) a personal watercraft;
(vi) a small motor vehicle;
(vii) a snowmobile;
(viii) a street motorcycle;
(ix) a tent trailer;
(x) a travel trailer; and
(xi) a vessel if that vessel is less than 31 feet in length as determined under Subsection (6).
(3) Except as provided in Subsection (4) and for purposes of this section, the uniform statewide fees are:
(a) for an all-terrain vehicle, an other motorcycle, or a snowmobile:

Age of All-Terrain Vehicle, Other Motorcycle, or Snowmobile	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$20
6 or more years but less than 9 years	$30
3 or more years but less than 6 years	$35
Less than 3 years	$45

(b) for a camper or a tent trailer:

Age of Camper or Tent Trailer	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$25
6 or more years but less than 9 years	$35
3 or more years but less than 6 years	$50
Less than 3 years	$70

(c) for an other trailer:

Age of Other Trailer	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$15
6 or more years but less than 9 years	$20
3 or more years but less than 6 years	$25
Less than 3 years	$30

(d) for a personal watercraft:

Age of Personal Watercraft	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$25
6 or more years but less than 9 years	$35
3 or more years but less than 6 years	$45
Less than 3 years	$55

(e) for a small motor vehicle:

Age of Small Motor Vehicle	Uniform Statewide Fee
6 or more years	$10
3 or more years but less than 6 years	$15
Less than 3 years	$25

(f) for a street motorcycle:

Age of Street Motorcycle	Uniform Statewide Fee
12 or more years	$10
9 or more years but less than 12 years	$35
6 or more years but less than 9 years	$50
3 or more years but less than 6 years	$70
Less than 3 years	$95

(g) for a travel trailer:

Age of Travel Trailer	Uniform Statewide Fee
12 or more years	$20
9 or more years but less than 12 years	$65
6 or more years but less than 9 years	$90
3 or more years but less than 6 years	$135
Less than 3 years	$175

(h) $10 regardless of the age of the vessel if the vessel is:
(i) less than 15 feet in length;
(ii) a canoe;
(iii) a jon boat; or
(iv) a utility boat;
(i) for a collapsible inflatable vessel, pontoon, or sailboat, regardless of age:

Length of Vessel	Uniform Statewide Fee
15 feet or more in length but less than 19 feet in length	$15
19 feet or more in length but less than 23 feet in length	$25
23 feet or more in length but less than 27 feet in length	$40
27 feet or more in length but less than 31 feet in length	$75

(j) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 15 feet or more in length but less than 19 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$25
9 or more years but less than 12 years	$65
6 or more years but less than 9 years	$80
3 or more years but less than 6 years	$110
Less than 3 years	$150

(k) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 19 feet or more in length but less than 23 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$50
9 or more years but less than 12 years	$120
6 or more years but less than 9 years	$175
3 or more years but less than 6 years	$220
Less than 3 years	$275

(l) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 23 feet or more in length but less than 27 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$100
9 or more years but less than 12 years	$180
6 or more years but less than 9 years	$240
3 or more years but less than 6 years	$310
Less than 3 years	$400

(m) for a vessel, other than a canoe, collapsible inflatable vessel, jon boat, pontoon, sailboat, or utility boat, that is 27 feet or more in length but less than 31 feet in length:

Age of Vessel	Uniform Statewide Fee
12 or more years	$120

9 or more years but less than 12 years	$250
6 or more years but less than 9 years	$350
3 or more years but less than 6 years	$500
Less than 3 years	$700

(4) For registrations under Section 41-1a-215.5, the uniform fee for purposes of this section is as follows:

(a) for a street motorcycle:

Age of Street Motorcycle	Uniform Statewide Fee
12 or more years	$7.75
9 or more years but less than 12 years	$27
6 or more years but less than 9 years	$38.50
3 or more years but less than 6 years	$54
Less than 3 years	$73

(b) for a small motor vehicle:

Age of Small Motor Vehicle	Uniform Statewide Fee
6 or more years	$7.75
3 or more years but less than 6 years	$11.50
Less than 3 years	$19.25

(5) Notwithstanding Section 59-2-407, tangible personal property subject to the uniform statewide fees imposed by this section that is brought into the state shall, as a condition of registration, be subject to the uniform statewide fees unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(6) (a) The revenues collected in each county from the uniform statewide fees imposed by this section shall be distributed by the county to each taxing entity in which each item of tangible personal property subject to the uniform statewide fees is located in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(b) Each taxing entity described in Subsection (6)(a) that receives revenues from the uniform statewide fees imposed by this section shall distribute the revenues in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(7) (a) For purposes of the uniform statewide fee imposed by this section, the length of a vessel shall be determined as provided in this Subsection (7).

(b) (i) Except as provided in Subsection (7)(b)(ii), the length of a vessel shall be measured as follows:

(A) the length of a vessel shall be measured in a straight line; and

(B) the length of a vessel is equal to the distance between the bow of the vessel and the stern of the vessel.

(ii) Notwithstanding Subsection (7)(b)(i), the length of a vessel may not include the length of:

(A) a swim deck;

(B) a ladder;

(C) an outboard motor; or

(D) an appurtenance or attachment similar to Subsections (7)(b)(ii)(A) through (C) as determined by the commission by rule.

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an appurtenance or attachment similar to Subsections (7)(b)(ii)(A) through (C).

(c) The length of a vessel:

(i) (A) for a new vessel, is the length:

(I) listed on the manufacturer's statement of origin if the length of the vessel measured under Subsection (7)(b) is equal to the length of the vessel listed on the manufacturer's statement of origin; or

(II) listed on a form submitted to the commission by a dealer in accordance with Subsection (7)(d) if the length of the vessel measured under Subsection (7)(b) is not equal to the length of the vessel listed on the manufacturer's statement of origin; or

(B) for a vessel other than a new vessel, is the length:

(I) corresponding to the model number if the length of the vessel measured under Subsection (7)(b) is equal to the length of the vessel determined by reference to the model number; or

(II) listed on a form submitted to the commission by an owner of the vessel in accordance with Subsection (7)(d) if the length of the vessel measured under Subsection (7)(b) is not equal to the length of the vessel determined by reference to the model number; and

(ii) (A) is determined at the time of the:

(I) first registration as defined in Section 41-1a-102 that occurs on or after January 1, 2006; or

(II) first renewal of registration that occurs on or after January 1, 2006; and

(B) may be determined after the time described in Subsection (7)(c)(ii)(A) only if the commission requests that a dealer or an owner submit a form to the commission in accordance with Subsection (7)(d).

(d) (i) A form under Subsection (7)(c) shall:

(A) be developed by the commission;

(B) be provided by the commission to:

(I) a dealer; or

(II) an owner of a vessel;

(C) provide for the reporting of the length of a vessel;

(D) be submitted to the commission at the time the length of the vessel is

determined in accordance with Subsection (7)(c)(ii);

(E) be signed by:

(I) if the form is submitted by a dealer, that dealer; or

(II) if the form is submitted by an owner of the vessel, an owner of the vessel; and

(F) include a certification that the information set forth in the form is true.

(ii) A certification made under Subsection (7)(d)(i)(F) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(iii) (A) A dealer or an owner that submits a form to the commission under Subsection (7)(c) is considered to have given the dealer's or owner's consent to an audit or review by:

(I) the commission;

(II) the county assessor; or

(III) the commission and the county assessor.

(B) The consent described in Subsection (7)(d)(iii)(A) is a condition to the acceptance of any form.

(8) (a) A county that collected a qualifying payment from a qualifying person during the refund period shall issue a refund to the qualifying person as described in Subsection (8)(b) if:

(i) the difference described in Subsection (8)(b) is $1 or more; and

(ii) the qualifying person submitted a form in accordance with Subsections (8)(c) and (d).

(b) The refund amount shall be calculated as follows:

(i) for a qualifying vehicle, the refund amount is equal to the difference between:

(A) the qualifying payment the qualifying person paid on the qualifying vehicle during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying vehicle; and

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period; and

(ii) for a qualifying watercraft, the refund amount is equal to the difference between:

(A) the qualifying payment the qualifying person paid on the qualifying watercraft during the refund period; and

(B) the amount of the statewide uniform fee:

(I) for that qualifying watercraft;

(II) that the qualifying person would have been required to pay:

(Aa) during the refund period; and

(Bb) in accordance with this section had Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1, been in effect during the refund period.

(c) Before the county issues a refund to the qualifying person in accordance with Subsection (8)(a) the qualifying person shall submit a form to the county to verify the qualifying person is entitled to the refund.

(d) (i) A form under Subsection (8)(c) or (9) shall:
(A) be developed by the commission;
(B) be provided by the commission to the counties;
(C) be provided by the county to the qualifying person or tangible personal property owner;
(D) provide for the reporting of the following:
(I) for a qualifying vehicle:
(Aa) the type of qualifying vehicle; and
(Bb) the amount of cubic centimeters displacement;
(II) for a qualifying watercraft:
(Aa) the length of the qualifying watercraft;
(Bb) the age of the qualifying watercraft; and
(Cc) the type of qualifying watercraft;
(E) be signed by the qualifying person or tangible personal property owner; and
(F) include a certification that the information set forth in the form is true.
(ii) A certification made under Subsection (8)(d)(i)(F) is considered as if made under oath and subject to the same penalties as provided by law for perjury.
(iii) (A) A qualifying person or tangible personal property owner that submits a form to a county under Subsection (8)(c) or (9) is considered to have given the qualifying person's consent to an audit or review by:
(I) the commission;
(II) the county assessor; or
(III) the commission and the county assessor.
(B) The consent described in Subsection (8)(d)(iii)(A) is a condition to the acceptance of any form.
(e) The county shall make changes to the commission's records with the information received by the county from the form submitted in accordance with Subsection (8)(c).
(9) A county shall change its records regarding an item of qualifying tangible personal property if the tangible personal property owner submits a form to the county in accordance with Subsection (8)(d).
(10) (a) For purposes of this Subsection (10), "owner of tangible personal property" means a person that was required to pay a uniform statewide fee:
(i) during the refund period;
(ii) in accordance with this section; and
(iii) on an item of tangible personal property subject to the uniform statewide fees imposed by this section.
(b) A county that collected revenues from uniform statewide fees imposed by this section during the refund period shall notify an owner of tangible personal property:
(i) of the tangible personal property classification changes made to this section pursuant to Laws of Utah 2006, Fifth Special Session, Chapter 3, Section 1;
(ii) that the owner of tangible personal property may obtain and file a form to modify the county's records regarding the owner's tangible personal property; and
(iii) that the owner may be entitled to a refund pursuant to Subsection (8).

Amended by Chapter 397, 2012 General Session

59-2-405.3. Uniform statewide fee on motor homes -- Distribution of revenues.

(1) For purposes of this section, "motor home" means:

(a) a motor home, as defined in Section 13-14-102, that is required to be registered with the state; or

(b) a self-propelled vehicle that is:

(i) modified for primary use as a temporary dwelling for travel, recreational, or vacation use; and

(ii) required to be registered with the state.

(2) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6), beginning on January 1, 2006, a motor home is:

(a) exempt from the tax imposed by Section 59-2-103; and

(b) in lieu of the tax imposed by Section 59-2-103, subject to a uniform statewide fee as provided in Subsection (3).

(3) The uniform statewide fee described in Subsection (2)(b) is:

(a) beginning on January 1, 2006, and ending December 31, 2007, 1.25% of the fair market value of the motor home, as established by the commission; and

(b) beginning on January 1, 2008, 1% of the fair market value of the motor home, as established by the commission.

(4) (a) Notwithstanding Section 59-2-407 and subject to Subsection (4)(b), a motor home subject to the uniform statewide fee imposed by this section that is brought into the state shall, as a condition of registration, be subject to the uniform statewide fee unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(b) Subsection (4)(a) does not apply to a motor home that is:

(i) brought into the state for the sole purpose of selling the motor home to a licensed dealer; and

(ii) purchased for resale by a person licensed as a dealer under Section 41-3-201.

(5) (a) Each county shall distribute the revenue collected by the county from the uniform statewide fee imposed by this section to each taxing entity in which each motor home subject to the uniform statewide fee is located in the same proportion in which revenue collected from the ad valorem property tax is distributed.

(b) Each taxing entity described in Subsection (5)(a) that receives revenue from the uniform statewide fee imposed by this section shall distribute the revenue in the same proportion in which revenue collected from the ad valorem property tax is distributed.

(6) An appeal relating to the uniform statewide fee imposed on a motor home by this section shall be filed pursuant to Section 59-2-1005.

Amended by Chapter 180, 2011 General Session

59-2-406. Collection of uniform fees and other motor vehicle fees.

(1) (a) For the purposes of efficiency in the collection of the uniform fee required by this section, the commission shall enter into a contract for the collection of the uniform fees required under Sections 59-2-405, 59-2-405.1, 59-2-405.2, and 59-2-405.3, and certain fees required by Title 41, Motor Vehicles.

(b) The contract required by this section shall, at the county's option, provide for one of the following collection agreements:

(i) the collection by the commission of:

(A) the uniform fees required under Sections 59-2-405, 59-2-405.1, 59-2-405.2, and 59-2-405.3; and

(B) all fees listed in Subsection (1)(c); or

(ii) the collection by the county of:

(A) the uniform fees required under Sections 59-2-405, 59-2-405.1, 59-2-405.2, and 59-2-405.3; and

(B) all fees listed in Subsection (1)(c).

(c) For purposes of Subsections (1)(b)(i)(B) and (1)(b)(ii)(B), the fees that are subject to the contractual agreement required by this section are the following fees imposed by Title 41, Motor Vehicles:

(i) registration fees for vehicles, mobile homes, manufactured homes, boats, and off-highway vehicles, with the exception of fleet and proportional registration;

(ii) title fees for vehicles, mobile homes, manufactured homes, boats, and off-highway vehicles;

(iii) plate fees for vehicles;

(iv) permit fees; and

(v) impound fees.

(d) A county may change the election it makes pursuant to Subsection (1)(b) by providing written notice of the change to the commission at least 18 months before the change shall take effect.

(2) The contract shall provide that the party contracting to perform services shall:

(a) be responsible for the collection of:

(i) the uniform fees under Sections 59-2-405, 59-2-405.1, 59-2-405.2, and 59-2-405.3; and

(ii) any fees described in Subsection (1)(c) as agreed to in the contract;

(b) utilize the documents and forms, guidelines, practices, and procedures that meet the contract specifications;

(c) meet the performance standards and comply with applicable training requirements specified in the rules made under Subsection (8)(a); and

(d) be subject to a penalty of 1/2 the difference between the reimbursement fee specified under Subsection (3) and the reimbursement fee for fiscal year 1997-98 if performance is below the performance standards specified in the rules made under Subsection (8)(a).

(3) (a) The commission shall recommend a reimbursement fee for collecting the fees as provided in Subsection (2)(a), except that the commission may not collect a reimbursement fee on a state-assessed commercial vehicle described in Subsection 59-2-405.1(2)(a)(ii).

(b) The reimbursement fee shall be based on two dollars per standard unit for the first 5,000 standard units in each county and one dollar per standard unit for all other standard units and shall be annually adjusted by the commission beginning July 1, 1999.

(c) The adjustment shall be equal to any increase in the Consumer Price Index for all urban consumers, prepared by the United States Bureau of Labor Statistics, during the preceding calendar year.

(d) The reimbursement fees under this Subsection (3) shall be appropriated by the Legislature.

(4) All counties that elect to collect the uniform fees described in Subsection (1)(b)(ii)(A) and any other fees described in Subsection (1)(c) as provided by contract shall be subject to similar contractual terms.

(5) The party performing the collection services by contract shall use appropriate automated systems software and equipment compatible with the system used by the other contracting party in order to ensure the integrity of the current motor vehicle data base and county tax systems, or successor data bases and systems.

(6) If the county elects not to collect the uniform fees described in Subsection (1)(b)(ii)(A) and the fees described in Subsection (1)(c):

(a) the commission shall:

(i) collect the uniform fees described in Subsection (1)(b)(ii)(A) and the fees described in Subsection (1)(c) in each county or regional center as negotiated by the counties with the commission in accordance with the requirements of this section; and

(ii) provide information to the county in a format and media consistent with the county's requirements; and

(b) the county shall pay the commission a reimbursement fee as provided in Subsection (3).

(7) This section shall not limit the authority given to the county in Section 59-2-1302.

(8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules specifying the performance standards and applicable training requirements for all contracts required by this section.

(b) Beginning on July 1, 1998, each new contract entered into under this section shall be subject to the rules made under Subsection (8)(a).

Amended by Chapter 382, 2008 General Session

59-2-407. Administration of uniform fees.

(1) (a) Except as provided in Subsection 59-2-405(4) or 59-2-405.3(4), the uniform fee authorized in Sections 59-2-404, 59-2-405, and 59-2-405.3 shall be assessed at the same time and in the same manner as ad valorem personal property taxes under Chapter 2, Part 13, Collection of Taxes, except that in listing personal property subject to the uniform fee with real property as permitted by Section 59-2-1302, the assessor or, if this duty has been reassigned in an ordinance under Section 17-16-5.5, the treasurer shall list only the amount of the uniform fee due, and not the taxable value of the property subject to the uniform fee.

(b) Except as provided in Subsection 59-2-405.1(4), the uniform fee imposed by Section 59-2-405.1 shall be assessed at the time of:
(i) registration as defined in Section 41-1a-102; and
(ii) renewal of registration.
(c) Except as provided in Subsection 59-2-405.2(4), the uniform statewide fee imposed by Section 59-2-405.2 shall be assessed at the time of:
(i) registration as defined in Section 41-1a-102; and
(ii) renewal of registration.
(2) The remedies for nonpayment of the uniform fees authorized by Sections 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, and 59-2-405.3 shall be the same as those provided in Chapter 2, Part 13, Collection of Taxes, for nonpayment of ad valorem personal property taxes.

Amended by Chapter 217, 2005 General Session
Amended by Chapter 244, 2005 General Session

59-2-501. Short title.
This part is known as the "Farmland Assessment Act."

Renumbered and Amended by Chapter 4, 1987 General Session

59-2-502. Definitions.
As used in this part:
(1) "Actively devoted to agricultural use" means that the land in agricultural use produces in excess of 50% of the average agricultural production per acre:
(a) as determined under Section 59-2-503; and
(b) for:
(i) the given type of land; and
(ii) the given county or area.
(2) "Conservation easement rollback tax" means the tax imposed under Section 59-2-506.5.
(3) "Identical legal ownership" means legal ownership held by:
(a) identical legal parties; or
(b) identical legal entities.
(4) "Land in agricultural use" means:
(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:
(i) forages and sod crops;
(ii) grains and feed crops;
(iii) livestock as defined in Section 59-2-102;
(iv) trees and fruits; or
(v) vegetables, nursery, floral, and ornamental stock; or
(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

(5) "Other eligible acreage" means land that is:
(a) five or more contiguous acres;
(b) eligible for assessment under this part; and
(c) (i) located in the same county as land described in Subsection 59-2-503(1)(a); or
(ii) contiguous across county lines with land described in Subsection 59-2-503(1)(a) as provided in Section 59-2-512.
(6) "Platted" means land in which:
(a) parcels of ground are laid out and mapped by their boundaries, course, and extent; and
(b) the plat has been approved as provided in Section 10-9a-604 or 17-27a-604.
(7) "Rollback tax" means the tax imposed under Section 59-2-506.
(8) "Withdrawn from this part" means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:
(a) an owner voluntarily requests that the land be withdrawn from this part;
(b) the land is no longer actively devoted to agricultural use;
(c) (i) the land has a change in ownership; and
(ii) (A) the new owner fails to apply for assessment under this part as required by Section 59-2-509; or
(B) (I) an owner applies for assessment under this part as required by Section 59-2-509; and
(II) the land does not meet the requirements of this part to be assessed under this part;
(d) (i) the legal description of the land changes; and
(ii) (A) an owner fails to apply for assessment under this part as required by Section 59-2-509; or
(B) (I) an owner applies for assessment under this part as required by Section 59-2-509; and
(II) the land does not meet the requirements of this part to be assessed under this part;
(e) if required by the county assessor, the owner of the land:
(i) fails to file a new application as provided in Subsection 59-2-508(4); or
(ii) fails to file a signed statement as provided in Subsection 59-2-508(4); or
(f) except as provided in Section 59-2-503, the land fails to meet a requirement of Section 59-2-503.

Amended by Chapter 254, 2005 General Session

59-2-503. Qualifications for agricultural use assessment.

(1) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:
(a) is not less than five contiguous acres in area, except that land may be assessed on the basis of the value that the land has for agricultural use:

(i) if:

(A) the land is devoted to agricultural use in conjunction with other eligible acreage; and

(B) the land and the other eligible acreage described in Subsection (1)(a)(i)(A) have identical legal ownership; or

(ii) as provided under Subsection (4); and

(b) except as provided in Subsection (5) or (6):

(i) is actively devoted to agricultural use; and

(ii) has been actively devoted to agricultural use for at least two successive years immediately preceding the tax year for which the land is being assessed under this part.

(2) In determining whether land is actively devoted to agricultural use, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:

(a) production levels reported in the current publication of the Utah Agricultural Statistics;

(b) current crop budgets developed and published by Utah State University; and

(c) other acceptable standards of agricultural production designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Land may be assessed on the basis of the land's agricultural value if the land:

(a) is subject to the privilege tax imposed by Section 59-4-101;

(b) is owned by the state or any of the state's political subdivisions; and

(c) meets the requirements of Subsection (1).

(4) Notwithstanding Subsection (1)(a), the commission or a county board of equalization may grant a waiver of the acreage limitation for land upon:

(a) appeal by the owner; and

(b) submission of proof that:

(i) 80% or more of the owner's, purchaser's, or lessee's income is derived from agricultural products produced on the property in question; or

(ii) (A) the failure to meet the acreage requirement arose solely as a result of an acquisition by a governmental entity by:

(I) eminent domain; or

(II) the threat or imminence of an eminent domain proceeding;

(B) the land is actively devoted to agricultural use; and

(C) no change occurs in the ownership of the land.

(5) (a) The commission or a county board of equalization may grant a waiver of the requirement that the land is actively devoted to agricultural use for the tax year for which the land is being assessed under this part upon:

(i) appeal by the owner; and

(ii) submission of proof that:

(A) the land was assessed on the basis of agricultural use for at least two years immediately preceding that tax year; and

(B) the failure to meet the agricultural production requirements for that tax year

was due to no fault or act of the owner, purchaser, or lessee.

(b) As used in Subsection (5)(a), "fault" does not include:

(i) intentional planting of crops or trees which, because of the maturation period, do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use; or

(ii) implementation of a bona fide range improvement program, crop rotation program, or other similar accepted cultural practices which do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use.

(6) Land that otherwise qualifies for assessment under this part qualifies for assessment under this part in the first year the land resumes being actively devoted to agricultural use if:

(a) the land becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral; and

(b) the land qualified for assessment under this part in the year immediately preceding the year the land became ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral.

(7) Land that otherwise qualifies under Subsection (1) to be assessed on the basis of the value that the land has for agricultural use does not lose that qualification by becoming subject to a forest stewardship plan developed under Section 65A-8a-106 under which the land is subject to a temporary period of limited use or nonuse.

Amended by Chapter 322, 2013 General Session

59-2-504. Exclusions from designation as agricultural use -- Exception.

(1) Except as provided in Subsection (2), land may not be assessed under this part if the land is:

(a) part of a platted subdivision or planned unit development, with restrictions prohibiting its use for agricultural purposes with surface improvements in place, whether within or without a city; or

(b) platted with surface improvements in place that are not an integral part of agricultural use.

(2) (a) If land has been platted with surface improvements in place, the land has been withdrawn from this part, and the owner is not able to transfer title to the platted property, or continue development of the platted property due to economic circumstances, or some other reasonable cause, the owner may petition the county assessor for reinstatement under this part for assessment purposes as land in agricultural use without vacating the subdivision plat.

(b) The county assessor may grant the petition for reinstatement described in Subsection (2)(a) if the land is actively devoted to agricultural use.

(3) For purposes of this section:

(a) "platted with surface improvements in place" means that:

(i) land is platted; and

(ii) all surface improvements necessary for the land to be sold as a lot or a unit are in place:

(A) regardless of whether or not it is the owner of the land who puts the surface improvements in place; and

(B) as determined by the:

(I) county legislative body if the land is located in an unincorporated area of the county;

(II) city legislative body if the land is located in a city; or

(III) town legislative body if the land is located in a town; and

(b) "surface improvement" means:

(i) a curb;

(ii) a gutter; or

(iii) pavement.

Amended by Chapter 208, 2003 General Session

59-2-505. Indicia of value for agricultural use assessment -- Inclusion of fair market value on certain property tax notices.

(1) (a) The county assessor shall consider only those indicia of value that the land has for agricultural use as determined by the commission when assessing land:

(i) that meets the requirements of Section 59-2-503 to be assessed under this part; and

(ii) for which the owner has:

(A) made a timely application in accordance with Section 59-2-508 for assessment under this part for the tax year for which the land is being assessed; and

(B) obtained approval of the application described in Subsection (1)(a)(ii)(A) from the county assessor.

(b) If land that becomes subject to a conservation easement created in accordance with Title 57, Chapter 18, Land Conservation Easement Act, meets the requirements of Subsection (1)(a) for assessment under this part, the county assessor shall consider only those indicia of value that the land has for agricultural use in accordance with Subsection (1)(a) when assessing the land.

(2) In addition to the value determined in accordance with Subsection (1), the fair market value assessment shall be included on the notices described in:

(a) Section 59-2-919.1; and

(b) Section 59-2-1317.

(3) The county board of equalization shall review the agricultural use value and fair market value assessments each year as provided under Section 59-2-1001.

Amended by Chapter 231, 2008 General Session
Amended by Chapter 301, 2008 General Session

59-2-506. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.

(1) Except as provided in this section, Section 59-2-506.5, or Section 59-2-511, if land is withdrawn from this part, the land is subject to a rollback tax imposed in

accordance with this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner that fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) $10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) the date the land is first assessed under this part; or

(B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(4) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recordation.

(b) The rollback tax collected under this section shall:

(i) be paid into the county treasury; and

(ii) be paid by the county treasurer to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice.

(b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the following are a lien on the land assessed under this part:

(i) the rollback tax; and

(ii) interest imposed in accordance with Subsection (7).

(b) The lien described in Subsection (6)(a) shall:

(i) arise upon the imposition of the rollback tax under this section;

(ii) end on the day on which the rollback tax and interest imposed in accordance with Subsection (7) are paid in full; and

(iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7) (a) A delinquent rollback tax under this section shall accrue interest:

(i) from the date of delinquency until paid; and

(ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) A rollback tax that is delinquent on September 1 of any year shall be included on the notice required by Section 59-2-1317, along with interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor that the land is withdrawn from this part in accordance with Subsection (2).

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-511, land that becomes exempt from taxation under Utah Constitution Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-503 to be assessed under this part.

(10) Land that becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral is not subject to the rollback tax:

(a) (i) for the portion of the land required by a split estate mineral rights owner to extract a mineral if, after the split estate mineral rights owner exercises the right to extract a mineral, the portion of the property that remains in agricultural production still meets the acreage requirements of Section 59-2-503 for assessment under this part; or

(ii) for the entire acreage that would otherwise qualify for assessment under this part if, after the split estate mineral rights owner exercises the right to extract a mineral, the entire acreage that would otherwise qualify for assessment under this part no longer meets the acreage requirements of Section 59-2-503 for assessment under this part only due to the extraction of the mineral by the split estate mineral rights owner; and

(b) for the period of time that the property described in Subsection (10)(a) is ineligible for assessment under this part due to the extraction of a mineral by the split estate mineral rights owner.

(11) (a) Subject to Subsection (11)(b), an owner of land may appeal to the county board of equalization:

(i) a decision by a county assessor to withdraw land from assessment under this

part; or

(ii) the imposition of a rollback tax under this section.

(b) An owner shall file an appeal under Subsection (11)(a) no later than 45 days after the day on which the county assessor mails the notice required by Subsection (5).

Amended by Chapter 279, 2014 General Session

59-2-506.5. Conservation easement rollback tax -- One-time in lieu fee payment -- Computation -- Lien -- Interest -- Notice -- Procedure -- Collection -- Distribution.

(1) (a) Notwithstanding Section 59-2-506 and subject to the requirements of this section, land is not subject to the rollback tax under Section 59-2-506, if:

(i) the land becomes subject to a conservation easement created in accordance with Title 57, Chapter 18, Land Conservation Easement Act;

(ii) the creation of the conservation easement described in Subsection (1)(a)(i) is considered to be a qualified conservation contribution for federal purposes under Section 170(h), Internal Revenue Code;

(iii) the land was assessed under this part in the tax year preceding the tax year that the land does not meet the requirements of Section 59-2-503;

(iv) after the creation of the conservation easement described in Subsection (1)(a)(i), the land does not meet the requirements of Section 59-2-503; and

(v) an owner of the land notifies the county assessor as provided in Subsection (1)(b).

(b) An owner of land described in Subsection (1)(a) shall notify the county assessor that the land meets the requirements of Subsection (1)(a) within 30 days after the day on which the land does not meet the requirements of Section 59-2-503.

(2) (a) Except as provided in Subsection (4), if a conservation easement is terminated in accordance with Section 57-18-5:

(i) the land described in Subsection (1) is subject to a conservation easement rollback tax imposed in accordance with this section; or

(ii) if the land described in Subsection (1) is owned by a governmental entity as defined in Section 59-2-511, the land is subject to a one-time in lieu fee payment that is:

(A) in an amount equal to the conservation easement rollback tax imposed in accordance with this section; and

(B) except as provided in Subsection (2)(b), paid, collected, and distributed in the same manner as the conservation easement rollback tax imposed in accordance with this section.

(b) Notwithstanding Subsection (2)(a)(ii)(B), a one-time in lieu fee payment under Subsection (2)(a)(ii) is not a lien on the land described in Subsection (2)(a)(ii).

(c) (i) The conservation easement rollback tax is an amount equal to 20 times the property tax imposed on the land for each year for the rollback period described in Subsection (2)(c)(ii).

(ii) For purposes of Subsection (2)(c)(i), the rollback period is a time period that:

(A) begins on the later of:

(I) the date the land became subject to a conservation easement; or

(II) five years preceding the day on which the county assessor mails the notice required by Subsection (3)(a); and

(B) ends the day on which the county assessor mails the notice required by Subsection (3)(a).

(d) An owner shall notify the county assessor that a conservation easement on land described in Subsection (1) has been terminated in accordance with Section 57-18-5 within 180 days after the day on which the conservation easement is terminated.

(3) (a) If land is subject to a conservation easement rollback tax under Subsection (2), the county assessor shall mail to an owner of the land a notice that:

(i) the land is subject to a conservation easement rollback tax under this section; and

(ii) the conservation easement rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice.

(b) The conservation easement rollback tax is:

(i) due and payable on the day the county assessor mails the notice required by Subsection (3)(a);

(ii) delinquent if an owner of the land that is subject to the conservation easement rollback tax does not pay the conservation easement rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (3)(a); and

(iii) subject to the same:

(A) interest provisions of Subsection 59-2-506(7) that apply to the rollback tax; and

(B) notice requirements of Subsection 59-2-506(7) that apply to the rollback tax.

(c) (i) Except as provided in Subsection (3)(c)(ii), the conservation easement rollback tax shall be paid, collected, subject to a lien, and distributed in a manner consistent with this section and Section 59-2-506.

(ii) Notwithstanding Subsection (3)(c)(i), a lien under Subsection (3)(c)(i) relates back to the day on which the conservation easement was terminated.

(4) (a) Notwithstanding Subsection (2), land described in Subsection (2) is not subject to the conservation easement rollback tax or the one-time in lieu fee payment required by Subsection (2) if after the conservation easement is terminated in accordance with Section 57-18-5:

(i) an owner of the land applies for assessment of the land as land in agricultural use under this part within 30 days after the day on which the conservation easement is terminated; and

(ii) the application for assessment of the land described in Subsection (4)(a)(i) is approved within two years after the day on which the application was filed.

(b) Notwithstanding Subsection (4)(a), if the land described in Subsection (4)(a)(i) does not receive approval for assessment as land in agricultural use under this part within two years after the day on which the application was filed under Subsection (4)(a), an owner of the land shall:

(i) within 30 days after the day on which the two-year period expires, notify the county assessor that the two-year period expired; and

(ii) pay the conservation easement rollback tax or the one-time in lieu fee payment required by Subsection (2) as provided in this section.

(5) Land subject to a conservation easement created in accordance with Title 57, Chapter 18, Land Conservation Easement Act, is not subject to a conservation easement rollback tax or a one-time in lieu fee payment if the land is assessed under this part in accordance with Section 59-2-505.

Amended by Chapter 208, 2003 General Session

59-2-507. Land included as agricultural -- Site of farmhouse excluded -- Taxation of structures and site of farmhouse.

(1) Land under barns, sheds, silos, cribs, greenhouses and like structures, lakes, dams, ponds, streams, and irrigation ditches and like facilities is included in determining the total area of land actively devoted to agricultural use. Land which is under the farmhouse and land used in connection with the farmhouse is excluded from that determination.

(2) All structures which are located on land in agricultural use, the farmhouse and the land on which the farmhouse is located, and land used in connection with the farmhouse, shall be valued, assessed, and taxed using the same standards, methods, and procedures that apply to other taxable structures and other land in the county.

Amended by Chapter 9, 2001 General Session

59-2-508. Application -- Signed statement -- Consent to creation of a lien -- Consent to audit and review -- Notice.

(1) If an owner of land eligible for assessment under this part wants the land to be assessed under this part, the owner shall submit an application to the county assessor of the county in which the land is located.

(2) An application required by Subsection (1) shall:

(a) be on a form:

(i) approved by the commission; and

(ii) provided to an owner:

(A) by the county assessor; and

(B) at the request of an owner;

(b) provide for the reporting of information related to this part;

(c) be submitted by:

(i) May 1 of the tax year in which assessment under Subsection (1) is requested if the land was not assessed under this part in the year before the application is submitted; or

(ii) by the date otherwise required by this part for land that prior to the application being submitted has been assessed under this part;

(d) be signed by all of the owners of the land that under the application would be assessed under this part;

(e) be accompanied by the prescribed fees made payable to the county recorder;

(f) include a certification by an owner that the facts set forth in the application or signed statement are true;

(g) include a statement that the application constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part; and

(h) be recorded by the county recorder.

(3) The application required by Subsection (2) constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part.

(4) (a) Once the application for assessment described in Subsection (1) has been approved, the county may:

(i) require the owner to submit a new application or a signed statement:

(A) by written request of the county assessor; and

(B) that verifies that the land qualifies for assessment under this part; or

(ii) except as provided in Subsection (4)(b), require no additional signed statement or application for assessment under this part.

(b) Notwithstanding Subsection (4)(a), a county shall require that an owner provide notice if land is withdrawn from this part:

(i) as provided in Section 59-2-506; or

(ii) for land that is subject to a conservation easement created in accordance with Section 59-2-506.5, as provided in Section 59-2-506.5.

(c) An application or signed statement required under Subsection (4)(a) shall be submitted by the date specified in the written request of the county assessor for the application or signed statement.

(5) A certification under Subsection (2)(f) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(6) (a) All owners applying for participation under this part and all purchasers or lessees signing statements under Subsection (7) are considered to have given their consent to field audit and review by:

(i) the commission;

(ii) the county assessor; or

(iii) the commission and the county assessor.

(b) The consent described in Subsection (6)(a) is a condition to the acceptance of any application or signed statement.

(7) Any owner of land eligible for assessment under this part because a purchaser or lessee actively devotes the land to agricultural use as required by Section 59-2-503, may qualify the land for assessment under this part by submitting with the application required under Subsection (2), a signed statement from that purchaser or lessee certifying those facts that would be necessary to meet the requirements of Section 59-2-503 for assessment under this part.

Amended by Chapter 208, 2003 General Session

59-2-509. Change of ownership or legal description.

(1) Subject to the other provisions of this section, land assessed under this part

may continue to be assessed under this part if the land continues to comply with the requirements of this part, regardless of whether the land continues to have:

(a) the same owner; or

(b) legal description.

(2) Notwithstanding Subsection (1), land described in Subsection (1) is subject to the rollback tax as provided in Section 59-2-506 if the land is withdrawn from this part.

(3) Notwithstanding Subsection (1), land is withdrawn from this part if:

(a) there is a change in:

(i) the ownership of the land; or

(ii) the legal description of the land; and

(b) after a change described in Subsection (3)(a):

(i) the land does not meet the requirements of Section 59-2-503; or

(ii) an owner of the land fails to submit a new application for assessment as provided in Section 59-2-508.

(4) An application required by this section shall be submitted within 120 days after the day on which there is a change described in Subsection (3)(a).

Amended by Chapter 141, 2002 General Session

59-2-510. Separation of land.

Separation of a part of the land which is being valued, assessed, and taxed under this part, either by conveyance or other action of the owner of the land, for a use other than agricultural, subjects the land which is separated to liability for the applicable rollback tax, but does not impair the continuance of agricultural use valuation, assessment, and taxation for the remaining land if it continues to meet the requirements of this part.

Renumbered and Amended by Chapter 4, 1987 General Session

59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including:

(i) a county;

(ii) a city;

(iii) a town;

(iv) a school district;

(v) a local district; or

(vi) a special service district; or

(d) an entity created by the state or the United States, including:

(i) an agency;

(ii) a board;

(iii) a bureau;
(iv) a commission;
(v) a committee;
(vi) a department;
(vii) a division;
(viii) an institution;
(ix) an instrumentality; or
(x) an office.
(2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:
(i) prior to the governmental entity acquiring the land, the land is assessed under this part; and
(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-503 for assessment under this part.
(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:
(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or
(ii) in exchange for the dedication, the person dedicating the public right-of-way receives:
(A) money; or
(B) other consideration.
(3) (a) Except as provided in Subsection (4), land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:
(i) the governmental entity acquires the land by eminent domain;
(ii) (A) the land is under the threat or imminence of eminent domain proceedings; and
(B) the governmental entity provides written notice of the proceedings to the owner; or
(iii) the land is donated to the governmental entity.
(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:
(A) to the county treasurer of the county in which the land is located; and
(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-506.
(ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the governmental entity shall make a one-time in lieu fee payment:
(A) to the county treasurer of the county in which the land is located; and
(B) (I) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-503, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity; or
(II) if the land remaining after the acquisition by the governmental entity is less than five acres, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity and the land remaining after the acquisition

by the governmental entity.

(iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the governmental entity" includes other eligible acreage that is used in conjunction with the land remaining after the acquisition by the governmental entity.

(c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues generated by the payment:

(i) to the taxing entities in which the land is located; and

(ii) in the same proportion as the revenue from real property taxes is distributed.

(4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity is made subject to a conservation easement in accordance with Section 59-2-506.5:

(a) the land is not subject to the rollback tax imposed by this part; and

(b) the governmental entity acquiring the land is not required to make an in lieu fee payment under Subsection (3)(b).

(5) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until the following are paid to the county treasurer:

(a) any tax due under this part;

(b) any one-time in lieu fee payment due under this part; and

(c) any interest due under this part.

Amended by Chapter 329, 2007 General Session

59-2-512. Land located in more than one county.

(1) If contiguous land in agricultural use in one ownership is located in more than one county, compliance with this part:

(a) shall be determined on the basis of the total area and production of the contiguous land; and

(b) is not determined on the basis of the area or production of land that is located in one particular county.

(2) If land in agricultural use in one ownership is located in more than one county but the land is not contiguous across county lines, compliance with the requirements of this part shall be determined on the basis of the total area and production of the land in each county.

Amended by Chapter 141, 2002 General Session

59-2-513. Tax list and duplicate.

The factual details to be shown on the assessor's tax list and duplicate with respect to land which is being valued, assessed, and taxed under this part are the same as those set forth by the assessor with respect to other taxable property in the county.

Renumbered and Amended by Chapter 4, 1987 General Session

59-2-514. State Farmland Evaluation Advisory Committee -- Membership -- Duties.

(1) There is created a State Farmland Evaluation Advisory Committee consisting of five members appointed as follows:

(a) one member appointed by the commission who shall be chairman of the committee;

(b) one member appointed by the president of Utah State University;

(c) one member appointed by the state Department of Agriculture and Food;

(d) one member appointed by the state County Assessors' Association; and

(e) one member actively engaged in farming or ranching appointed by the other members of the committee.

(2) The committee shall meet at the call of the chairman to review the several classifications of land in agricultural use in the various areas of the state and recommend a range of values for each of the classifications based upon productive capabilities of the land when devoted to agricultural uses. The recommendations shall be submitted to the commission prior to October 2 of each year.

Amended by Chapter 82, 1997 General Session

59-2-515. Rules prescribed by commission.

The commission may promulgate rules and prescribe forms necessary to effectuate the purposes of this part.

Renumbered and Amended by Chapter 4, 1987 General Session

59-2-701. Appraisal by certified or licensed appraisers -- Appraiser trainees -- Certification of elected county assessors -- Commission may prescribe additional requirements for appraisers -- Rulemaking authority -- County assessor to ensure compliance.

(1) (a) Except as provided in Subsection (1)(b), a person performing an appraisal for purposes of establishing fair market value of real estate or real property for the assessment roll shall be the holder of an appraiser's certificate or license issued by the Division of Real Estate under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(b) Notwithstanding Section 61-2g-301, an uncertified or unlicensed appraiser trainee who is registered under Section 61-2g-302 may appraise property under the direction of a holder of an appraiser's certificate or license issued by the Division of Real Estate under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(2) The limitations on appraisal authority under Subsections 61-2g-311(1) and (2) and Section 61-2g-312 do not apply to a person performing an appraisal for purposes of establishing fair market value for the assessment roll.

(3) The commission may prescribe additional requirements for any person performing an appraisal for purposes of establishing fair market value for the assessment roll.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to establish qualifications for personal property appraisers exempt from licensure under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(5) In accordance with Section 17-17-1, a county assessor shall ensure that the assessor's office is in compliance with this section and any additional rules or requirements for property appraisers established by the commission.

Amended by Chapter 70, 2012 General Session

59-2-702. Education and training of appraisers -- Continuing education for appraisers and county assessors.

(1) The commission shall conduct, at its own expense, a program of education and training of appraisal personnel preparatory to the examination of applicants for appraisers' and assessors' certification or licensure required by Section 59-2-701.

(2) To ensure that the assessment of property will be performed in a professional manner by competent personnel, meeting specified professional qualifications, the commission shall conduct a continuing program of in-service education and training for county assessors and property appraisers in the principles and practices of assessment and appraisal of property. For this purpose the commission may cooperate with educational institutions, local, regional, state, or national assessors' organizations, and with other appropriate professional organizations. The commission may reimburse the participation expenses incurred by assessors and other employees of the state or its subdivisions whose attendance at in-service training programs is approved by the commission.

Amended by Chapter 214, 2001 General Session

59-2-703. Commission to assist county assessors -- Appraisers provided upon request -- Costs of services -- Contingency fee arrangements prohibited.

(1) The commission shall, upon request and pursuant to mutual agreement, provide county assessors with technical assistance and appraisal aid. It shall provide certified or licensed appraisers who, upon request of the county assessor and pursuant to mutual agreement, shall perform appraisals of property and other technical services as needed by the county assessor. The costs of these services shall be computed by the commission upon the basis of the number of days of services rendered. Each county shall pay to the commission 50% of the cost of the services which they receive.

(2) (a) Both the commission and counties may contract with a private firm or an individual to conduct appraisals.

(b) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the commission and counties may disclose the name of the taxpayer and the taxpayer's address to the contract appraiser. A private appraiser is subject to the confidentiality requirements and penalty provisions provided in Title 63G, Chapter 2, Part 8, Remedies.

(c) Neither the commission nor a county may contract with a private firm or an

individual under a contingency fee arrangement to assess property or prosecute or defend an appeal. An appraisal that has been prepared on a contingency fee basis may not be allowed in any proceeding before a county board of equalization or the commission.

Amended by Chapter 382, 2008 General Session

59-2-704. Assessment studies -- Sharing of data -- Factoring assessment rates -- Corrective action.

(1) Each year, to assist in the evaluation of appraisal performance of taxable real property, the commission shall conduct and publish studies to determine the relationship between the market value shown on the assessment roll and the market value of real property in each county. The studies shall include measurements of uniformity within counties and use statistical methods established by the commission. County assessors may provide sales information to the commission for purposes of the studies. The commission shall make the sales and appraisal information related to the studies available to the assessors upon request.

(2) The commission shall, each year, order each county to adjust or factor its assessment rates using the most current studies so that the assessment rate in each county is in accordance with that prescribed in Section 59-2-103. The adjustment or factoring may include an entire county, geographical areas within a county, and separate classes of properties. Where significant value deviations occur, the commission shall also order corrective action.

(3) If the commission determines that sales data in any county is insufficient to perform the studies required under Subsection (1), the commission may conduct appraisals of property within that county.

(4) If a county fails to implement factoring or corrective action ordered under Subsection (2), the commission shall:

(a) implement the factoring or corrective action; and

(b) charge 100% of the reasonable implementation costs to that county.

(5) If a county disputes the factoring or corrective action ordered under Subsection (2), the matter may be mediated by the Multicounty Appraisal Trust.

(6) The commission may change the factor for any county which, after a hearing before the commission, establishes that the factor should properly be set at a different level for that county. The commission shall establish the method, procedure, and timetable for the hearings authorized under this section, including access to information to ensure a fair hearing. The commission may establish rules to implement this section.

Amended by Chapter 9, 2001 General Session

59-2-704.5. Commission to adopt rules -- Legislative review.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after receiving the advice of the Utah Assessors Association, the commission shall by rule adopt standards for determining acceptable assessment levels and

valuation deviations within each county. The standards shall be used for determining whether factoring or corrective action is required under Subsection 59-2-704(2).

(2) As part of its review of the standards for determining acceptable assessment levels and valuation deviations within each county, the commission shall consider any relevant standards promulgated by the International Association of Assessing Officers.

(3) By October 1, 1998, and every five years thereafter, the Revenue and Taxation Interim Committee shall review the commission's standards and determine whether the standards should be modified.

Amended by Chapter 382, 2008 General Session

59-2-705. Personal property audits -- Records confidential -- Cost.

(1) The commission shall provide the services of qualified personal property appraisers for the purpose of auditing taxable personal property accounts in each county. The results of the audits shall be reported to the assessor of the county. The reports shall constitute the confidential records of the commission and the assessor's office but the commission or the assessor may publish statistical information based upon the audits. The accounts to be audited shall be determined by the commission and the county assessor.

(2) The costs of all personal property audits made pursuant to Subsection (1) shall be computed by the commission upon the basis of the number of days of services rendered, and 70% of the cost shall be borne by the commission and 30% by the county. To assist the counties in budgeting for these services, the commission shall submit to each county assessor not later than May 1 of each year an estimate of the costs of the audits for the following fiscal year.

Amended by Chapter 3, 1988 General Session

59-2-801. Apportionment of property assessed by commission.

(1) Before May 25 of each year, the commission shall apportion to each tax area the total assessment of all of the property the commission assesses as provided in Subsections (1)(a) through (f).

(a) (i) The commission shall apportion the assessments of the property described in Subsection (1)(a)(ii):

(A) to each tax area through which the public utility or company described in Subsection (1)(a)(ii) operates; and

(B) in proportion to the property's value in each tax area.

(ii) Subsection (1)(a)(i) applies to property owned by:

(A) a public utility, except for the rolling stock of a public utility;

(B) a pipeline company;

(C) a power company;

(D) a canal company; or

(E) an irrigation company.

(b) The commission shall apportion the assessments of the rolling stock of a railroad:

(i) to the tax areas through which railroads operate; and

(ii) in the proportion that the length of the main tracks, sidetracks, passing tracks, switches, and tramways of the railroads in each tax area bears to the total length of the main tracks, sidetracks, passing tracks, switches, and tramways in the state.

(c) The commission shall apportion the assessments of the property of a car company to:

(i) each tax area in which a railroad is operated; and

(ii) in the proportion that the length of the main tracks, passing tracks, sidetracks, switches, and tramways of all of the railroads in each tax area bears to the total length of the main tracks, passing tracks, sidetracks, switches, and tramways of all of the railroads in the state.

(d) (i) The commission shall apportion the assessments of the property described in Subsection (1)(d)(ii) to each tax area in which the property is located.

(ii) Subsection (1)(d)(i) applies to the following property:

(A) mines;

(B) mining claims; or

(C) mining property.

(e) (i) As used in this Subsection (1)(e), "ground hours" means the total number of hours during the calendar year immediately preceding the January 1 described in Section 59-2-103 that aircraft owned or operated by the following are on the ground:

(A) an air charter service;

(B) an air contract service; or

(C) an airline.

(ii) The commission shall apportion the assessments of the property described in Subsection (1)(e) (iii) to:

(A) each designated tax area; and

(B) in the proportion that the ground hours in each designated tax area bear to the total ground hours in the state.

(iii) Subsection (1)(e) (ii) applies to the mobile flight equipment owned by an:

(A) air charter service;

(B) air contract service; or

(C) airline.

(f) (i) The commission shall apportion the assessments of the property described in Subsection (1)(f)(ii) to each tax area in which the property is located as of January 1 of each year.

(ii) Subsection (1)(f)(i) applies to the real and tangible personal property, other than mobile flight equipment, owned by an:

(A) air charter service;

(B) air contract service; or

(C) airline.

(2) (a) (i) (A) State-assessed commercial vehicles that weigh 12,001 pounds or more shall be taxed at a statewide average rate which is calculated from the overall county average tax rates from the preceding year, exclusive of the property subject to the statewide uniform fee, weighted by lane miles of principal routes in each county.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall adopt rules to define "principal routes."

(ii) State-assessed commercial vehicles that weigh 12,000 pounds or less are subject to the uniform fee provided in Section 59-2-405.1.

(b) The combined revenue from all state-assessed commercial vehicles shall be apportioned to the counties based on:

(i) 40% by the percentage of lane miles of principal routes within each county as determined by the commission; and

(ii) 60% by the percentage of total state-assessed vehicles having business situs in each county.

(c) At least quarterly, the commission shall apportion the total taxes paid on state-assessed commercial vehicles to the counties.

(d) Each county shall apportion its share of the revenues under this Subsection (2) to the taxing entities within its boundaries in the same proportion as the assessments of other:

(i) real property;

(ii) tangible personal property; and

(iii) property assessed by the commission.

Amended by Chapter 283, 2008 General Session
Amended by Chapter 382, 2008 General Session

59-2-802. Statement of commission transmitted to county auditors -- Contents of statement -- Duties of auditors -- Change of assessment prohibited.

(1) The commission shall, before June 8, annually transmit to the county auditor of each county to which an apportionment has been made a statement showing:

(a) the property assessed;

(b) the value of the property, as fixed and apportioned to the tax areas; and

(c) the aggregate amount of taxable value placed in dispute by property owners within the county pursuant to Section 59-2-1007.

(2) The county auditor shall enter the:

(a) statement on the county assessment roll or book; and

(b) amount of the assessment apportioned to the county in the column of the assessment book or roll which shows for the county the total taxable value of all property.

(3) A county board of equalization may not change any assessment fixed by the commission.

Amended by Chapter 309, 1997 General Session

59-2-803. Statement transmitted by county auditors to governing bodies -- Contents of statement.

(1) The county auditor shall transmit to the governing bodies of taxing entities in which the property is located, or to which any of the value is apportioned, a statement of the valuation of all property as fixed and apportioned by the commission and

reported under Section 59-2-802.

(2) The statement under Subsection (1) shall contain the aggregate amount of taxable value placed in dispute by property owners within the county pursuant to Section 59-2-1007.

(3) The statement shall be transmitted at the same time and in the same manner as the statement is transmitted under Section 59-2-924.

Amended by Chapter 309, 1997 General Session

59-2-804 (Superseded 01/01/15). Interstate allocation of mobile flight equipment.

(1) As used in this section:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline ground hours calculation" means an amount equal to the product of:

(i) the total number of hours aircraft owned or operated by an airline are on the ground, calculated by aircraft type; and

(ii) the cost percentage.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the calendar year that immediately precedes the January 1 described in Section 59-2-103.

(d) "Cost percentage" means a fraction, calculated by aircraft type, the numerator of which is the airline's average cost of the aircraft type and the denominator of which is the airline's average cost of the aircraft type:

(i) owned or operated by the airline; and

(ii) that has the lowest average cost.

(e) "Ground hours factor" means the product of:

(i) a fraction, the numerator of which is the Utah ground hours calculation and the denominator of which is the airline ground hours calculation; and

(ii) .50.

(f) (i) Except as provided in Subsection (1)(f)(ii), "mobile flight equipment" is as defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include tangible personal property described in Subsection 59-2-102(25) owned by an:

(A) air charter service; or

(B) air contract service.

(g) "Mobile flight equipment allocation factor" means the sum of:

(i) the ground hours factor; and

(ii) the revenue ton miles factor.

(h) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

(i) "Revenue ton miles factor" means the product of:

(i) a fraction, the numerator of which is the Utah revenue ton miles and the denominator of which is the airline revenue ton miles; and

(ii) .50.

(j) "Utah ground hours calculation" means an amount equal to the product of:

(i) the total number of hours aircraft owned or operated by an airline are on the ground in this state, calculated by aircraft type; and

(ii) the cost percentage.

(k) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:

(i) during the calendar year that immediately precedes the January 1 described in Section 59-2-103; and

(ii) from flight stages that originate or terminate in this state.

(2) For purposes of the assessment of an airline's mobile flight equipment by the commission, a portion of the value of the airline's mobile flight equipment shall be allocated to the state by calculating the product of:

(a) the total value of the mobile flight equipment; and

(b) the mobile flight equipment allocation factor.

Enacted by Chapter 283, 2008 General Session

59-2-901. Determination of rate by commission -- Transmittal to county and state auditors.

Before June 22 of each year the commission shall determine the rate of state tax to be levied and collected upon the taxable value of all property in the state sufficient to raise the amount of revenue specified by the Legislature for general state purposes. That rate may not exceed .00048 per dollar of taxable value of taxable property in the state. The commission shall transmit to the county auditor of each county and to the state auditor a statement of that rate. The county auditor shall, upon receipt, give the commission written acknowledgment of receipt.

Amended by Chapter 3, 1988 General Session

59-2-902. Minimum basic tax levy for school districts.

(1) If any county fails to comply with Section 59-2-704, then this section determines the adjustment of the basic school levy for school districts within the county. Before June 15, the commission shall ascertain from the State Board of Education the number of weighted pupil units in each school district in the state for the school year commencing July 1 of the current calendar year, estimated according to the Minimum School Program Act, and the money necessary for the cost of the operation and maintenance of the minimum school program of the state for the school fiscal year beginning July 1 of the current calendar year. The commission shall then estimate the amounts of all surpluses in the Uniform School Fund, as of July 1 of the current calendar year, available for the operation and maintenance of the program, and shall estimate the anticipated income to the fund available for those purposes for the current school year from all sources, including revenues from taxes on income or from taxes on intangible property pursuant to Article XIII, Sec. 12, Utah Constitution.

(2) The commission shall then determine for each school district the amount to be raised by the minimum basic tax levy as its contribution toward the cost of the basic state-supported program, as required by the Minimum School Program Act.

(3) Each county auditor shall be notified by the commission that the minimum basic tax levy shall be imposed by the school district, to which shall be added an additional amount, if any, due to local undervaluation as provided in this section. The auditor shall inform the county legislative body as to the amount of the levy. The county legislative body shall at the time and in the manner provided by law make the levy upon the taxable property in the school district together with further levies for school purposes as may be required by each school district to pay the costs of programs in excess of the basic state-supported school program.

(4) If the levy applied under this section raises an amount in excess of the total basic state-supported school program for a school district, the excess amount shall be remitted by the school district to the State Board of Education to be credited to the Uniform School Fund for allocation to school districts to support the basic state-supported school program. The availability of money shall be considered by the commission in fixing the state property levy as provided in the Minimum School Program Act.

(5) If the levy does not raise an amount in excess of the total basic state-supported school program for a district, then the difference between the amount which the local levy will raise within the district, and the total cost of the basic state-supported school program within the district shall be computed. This difference, if any, shall be apportioned from the Uniform School Fund to each school district as the contribution of the state to the basic state-supported school program for the district, subject to the following conditions:

(a) Before the apportionment is made, the commission shall determine if the local taxable valuation of any school district is undervalued according to law and if so, the dollar amount of the undervaluation. The dollar amount of the undervaluation shall be multiplied by the district basic uniform school levy at 98%. The resulting dollar amount shall be divided by the current year estimated yield of .0002 per dollar of taxable value at 98% based on the district's taxable valuation prior to adjusting for undervaluation.

(b) The resulting levy amount shall be added to the required district basic uniform levy to determine the combined district basic school levy adjusted for undervaluation. The combined rate of levy shall be certified to the county auditor and employed by the auditor and the county legislative body in lieu of the required basic school local levy.

Amended by Chapter 4, 1993 General Session
Amended by Chapter 227, 1993 General Session

59-2-903. Remittance to credit of Uniform School Fund of money in excess of basic state-supported school program -- Manner.

In providing for remittance to the State Board of Education of any excess collections from the tax levy applied for the basic state-supported school program as specified in Subsection 59-2-902(4), the excess amount shall be remitted in the following manner:

(1) by June 1, 95% of the amount by which the money then collected, pursuant

to the levy, exceeds the estimated total basic state-supported school program of the district; or

(2) as soon after the end of the school year as the school district and the State Board of Education can determine the actual cost of the district's basic state-supported school program, the district and the State Board of Education shall make a final settlement.

Amended by Chapter 3, 1988 General Session

59-2-904. Participation by district in state's contributions to state-supported levy program.

(1) In addition to the basic state contribution provided in Section 59-2-902, a school district may participate in the state's contributions to the state-supported levy program by conforming to the requirements of the Minimum School Program Act and by making the required additional levy.

(2) A school district that participates in the state-supported levy program shall certify to the State Board of Education the results of its determination and the amount of the board or voted local levy that the district will impose.

Amended by Chapter 371, 2011 General Session

59-2-905. Legislature to set minimum rate of levy for state's contribution to minimum school program -- Matters to be considered -- Commission to transmit rate to auditors -- Acknowledgment of receipt.

The Legislature shall set the minimum rate of levy on each dollar of taxable value of taxable property so that it will raise sufficient supplementary revenue to pay the state's contribution to the cost of the minimum school program for that year. The Legislature shall take into consideration the estimated tax delinquency for the current year, and shall be conservative in its estimate of revenue to assure ample funds for the state's contribution to the cost of the minimum school program. The commission shall immediately transmit to the county auditor of each county and to the state auditor a statement of the rate. The county auditor shall, upon receipt, give the commission written acknowledgment of receipt.

Amended by Chapter 3, 1988 General Session

59-2-906. Rates fixed by commission valid.

The action of the commission in fixing the rate of taxation for state and state school purposes is a valid rate.

Amended by Chapter 3, 1988 General Session

59-2-908. Single aggregate limitation -- Maximum levy.

(1) Except as provided in Subsection (2), each county shall have a single aggregate limitation on the property tax levied for all purposes by the county. Except

as provided in Section 59-2-911, this limitation may not exceed the maximum set forth in this section. The maximum is:

(a) .0032 per dollar of taxable value in all counties with a total taxable value of more than $100,000,000; and

(b) .0036 per dollar of taxable value in all counties with a total taxable value of less than $100,000,000.

(2) (a) Beginning January 1, 1995, a county may impose a tax rate in excess of the limitation provided in Subsection (1) if the rate established under Subsection (1)(a) or (b) generates revenues for the county in an amount that is less than the revenues that would be generated by the county under the certified tax rate established in Section 59-2-924.

(b) A county meeting the requirements of Subsection (2)(a) may impose a tax rate that does not exceed the certified tax rate established in Section 59-2-924.

Amended by Chapter 61, 2008 General Session
Amended by Chapter 231, 2008 General Session
Amended by Chapter 236, 2008 General Session

59-2-909. Time for adoption of levy -- County purpose requirement.

The county legislative body of each county shall adopt a proposed or, if the tax rate is not more than the certified tax rate, a final tax rate on the taxable property of the county before June 22 to provide funds for county purposes.

Amended by Chapter 227, 1993 General Session

59-2-910. Amount available for each purpose.

The county legislative body shall determine the amount which shall be available for each purpose authorized by law.

Amended by Chapter 227, 1993 General Session

59-2-911. Exceptions to maximum levy limitation.

(1) The maximum levies set forth in Section 59-2-908 do not apply to and do not include:

(a) levies made to pay outstanding judgment debts;

(b) levies made in any special improvement districts;

(c) levies made for extended services in any county service area;

(d) levies made for county library services;

(e) levies made to be used for storm water, flood, and water quality control;

(f) levies made to share disaster recovery expenses for public facilities and structures as a condition of state assistance when a Presidential Declaration has been issued under the Disaster Relief Act of 1974, 42 U.S.C. Sec. 5121;

(g) levies made to pay interest and provide for a sinking fund in connection with any bonded or voter authorized indebtedness, including the bonded or voter authorized indebtedness of county service areas, special service districts, and special

improvement districts;

(h) levies made to fund local health departments;

(i) levies made to fund public transit districts;

(j) levies made to establish, maintain, and replenish special improvement guaranty funds;

(k) levies made in any special service district;

(l) levies made to fund municipal-type services to unincorporated areas of counties under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas;

(m) levies made to fund the purchase of paramedic or ambulance facilities and equipment and to defray administration, personnel, and other costs of providing emergency medical and paramedic services, but this exception only applies to those counties in which a resolution setting forth the intention to make those levies has been duly adopted by the county legislative body and approved by a majority of the voters of the county voting at a special or general election;

(n) the multicounty and county assessing and collecting levies under Section 59-2-1602; and

(o) all other exceptions to the maximum levy limitation pursuant to statute.

(2) (a) Upon the retirement of bonds issued for the development of a convention complex described in Section 17-12-4, and notwithstanding Section 59-2-908, any county of the first class may continue to impose a property tax levy equivalent to the average property tax levy previously imposed to pay debt service on those retired bonds.

(b) Notwithstanding that the imposition of the levy described in Subsection (2)(a) may not result in an increased amount of ad valorem tax revenue, the levy is subject to the notice requirements of Section 59-2-919.

(c) The revenues from this continued levy shall be used only for the funding of convention facilities as defined in Section 59-12-602.

Amended by Chapter 270, 2014 General Session

59-2-912. Time for adoption of levy -- Certification to county auditor.

(1) Except as provided in Subsection (2), the governing body of each taxing entity shall before June 22 of each year:

(a) adopt a proposed tax rate, or, if the tax rate is not more than the certified tax rate, a final tax rate for the taxing entity; and

(b) report the rate and levy, and submit the statement required under Section 59-2-913 and any other information prescribed by rules of the commission for the preparation, review, and certification of the tax rate, to the county auditor of the county in which the taxing entity is located.

(2) If the governing body of a taxing entity does not receive the taxing entity's certified tax rate at least seven days prior to the date described in Subsection (1), the governing body of the taxing entity shall, no later than 14 days after receiving the certified tax rate from the county auditor:

(a) adopt a proposed tax rate, or, if the tax rate is not more than the certified tax rate, a final tax rate for the taxing entity; and

(b) comply with the requirements of Subsection (1)(b).

(3) (a) If the governing body of a taxing entity fails to comply with Subsection (1) or (2), the auditor of the county in which the taxing entity is located shall notify the taxing entity by certified mail of the deficiency and forward all available documentation to the commission.

(b) Upon receipt of the notice and documentation from the county auditor under Subsection (3)(a), the commission shall hold a hearing on the matter and certify an appropriate tax rate.

Amended by Chapter 183, 2013 General Session

59-2-913. Definitions -- Statement of amount and purpose of levy -- Contents of statement -- Filing with county auditor -- Transmittal to commission -- Calculations for establishing tax levies -- Format of statement.

(1) As used in this section, "budgeted property tax revenues" does not include property tax revenue received by a taxing entity from personal property that is:

(a) assessed by a county assessor in accordance with Part 3, County Assessment; and

(b) semiconductor manufacturing equipment.

(2) (a) The legislative body of each taxing entity shall file a statement as provided in this section with the county auditor of the county in which the taxing entity is located.

(b) The auditor shall annually transmit the statement to the commission:

(i) before June 22; or

(ii) with the approval of the commission, on a subsequent date prior to the date required by Section 59-2-1317 for the county treasurer to provide the notice under Section 59-2-1317.

(c) The statement shall contain the amount and purpose of each levy fixed by the legislative body of the taxing entity.

(3) For purposes of establishing the levy set for each of a taxing entity's applicable funds, the legislative body of the taxing entity shall calculate an amount determined by dividing the budgeted property tax revenues, specified in a budget which has been adopted and approved prior to setting the levy, by the amount calculated under Subsections 59-2-924(3)(c)(ii)(A) through (C).

(4) The format of the statement under this section shall:

(a) be determined by the commission; and

(b) cite any applicable statutory provisions that:

(i) require a specific levy; or

(ii) limit the property tax levy for any taxing entity.

(5) The commission may require certification that the information submitted on a statement under this section is true and correct.

Amended by Chapter 279, 2014 General Session

59-2-914. Excess levies -- Commission to recalculate levy -- Notice to

implement adjusted levies to county auditor -- Authority to exceed maximum levy permitted by law.

(1) If the commission determines that a levy established for a taxing entity set under Section 59-2-913 is in excess of the maximum levy permitted by law, the commission shall:

(a) lower the levy so that it is set at the maximum level permitted by law;

(b) notify the taxing entity which set the excessive rate that the rate has been lowered; and

(c) notify the county auditor of the county or counties in which the taxing entity is located to implement the rate established by the commission.

(2) A levy set for a taxing entity by the commission under this section shall be the official levy for that taxing entity unless:

(a) the taxing entity lowers the levy established by the commission; or

(b) the levy is subsequently modified by a court order.

(3) Notwithstanding Subsection (1) or (2), a taxing entity may impose a tax rate that exceeds the maximum levy permitted by law if the tax rate the taxing entity imposes is at or below the taxing entity's certified tax rate established in Section 59-2-924.

Amended by Chapter 469, 2013 General Session

59-2-916. Tax for development of Colorado River Water Project.

The governing body of each county, town, city, conservation district, and metropolitan district may levy a tax for participation in the development of the use of Colorado river water in Utah through the Colorado River-Great Basin Project. The tax shall be levied at the same time and collected in the same manner as other taxes.

Renumbered and Amended by Chapter 4, 1987 General Session

59-2-917. Use of funds.

The money raised by the levy imposed by Section 59-2-916 may be used for development purposes as provided in Section 59-2-916 or the governing body of any taxing entity may make contributions to the extent of the fund raised by the tax, to any state or government agency which has been organized for that public purpose and is engaged in the development.

Amended by Chapter 3, 1988 General Session

59-2-918.5 (Superseded 01/01/15). Hearings on judgment levies -- Advertisement.

(1) A taxing entity may not impose a judgment levy unless it first advertises its intention to do so and holds a public hearing in accordance with the requirements of this section.

(2) (a) The advertisement required by this section may be combined with the advertisement described in Section 59-2-919.

(b) The advertisement shall be at least 1/8 of a page in size and shall meet the

type, placement, and frequency requirements established under Section 59-2-919.

(c) (i) For taxing entities operating under a July 1 through June 30 fiscal year the public hearing shall be held at the same time as the hearing at which the annual budget is adopted.

(ii) For taxing entities operating under a January 1 through December 31 fiscal year:

(A) for eligible judgments issued from June 1 through December 15, the public hearing shall be held at the same time as the hearing at which the annual budget is adopted; and

(B) for eligible judgments issued from December 16 through May 31, the public hearing shall be held at the same time as the hearing at which property tax levies are set.

(3) The advertisement shall specify the date, time, and location of the public hearing at which the levy will be considered and shall set forth the total amount of the eligible judgment and the tax impact on an average residential and business property located within the taxing entity.

(4) If a final decision regarding the judgment levy is not made at the public hearing, the taxing entity shall announce at the public hearing the scheduled time and place for consideration and adoption of the judgment levy.

(5) The date, time, and place of public hearings required by Subsections (2)(c)(i) and (2)(c)(ii)(B) shall be included on the notice mailed to property owners pursuant to Section 59-2-919.1.

Amended by Chapter 204, 2009 General Session

59-2-918.6. New and remaining school district budgets -- Advertisement -- Public hearing.

(1) As used in this section, "existing school district," "new school district," and "remaining school district" are as defined in Section 53A-2-117.

(2) For the first fiscal year in which a new school district created under Section 53A-2-118.1 assumes responsibility for providing student instruction, the new school district and the remaining school district or districts may not impose a property tax unless the district imposing the tax:

(a) advertises its intention to do so in accordance with Subsection (3); and

(b) holds a public hearing in accordance with Subsection (4).

(3) The advertisement required by this section:

(a) may be combined with the advertisement described in Section 59-2-919;

(b) shall be at least 1/4 of a page in size and shall meet the type, placement, and frequency requirements established under Section 59-2-919; and

(c) shall specify the date, time, and location of the public hearing at which the levy will be considered and shall set forth the total amount of the district's proposed property tax levy and the tax impact on an average residential and business property located within the taxing entity compared to the property tax levy imposed in the prior year by the existing school district.

(4) (a) The date, time, and place of public hearings required by this section shall

be included on the notice mailed to property owners pursuant to Section 59-2-919.1.

(b) If a final decision regarding the property tax levy is not made at the public hearing, the school district shall announce at the public hearing the scheduled time and place for consideration and adoption of the budget and property tax levies.

Amended by Chapter 204, 2009 General Session

59-2-919. Notice and public hearing requirements for certain tax increases -- Exceptions.

(1) As used in this section:

(a) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from new growth as defined in Section 59-2-924.

(b) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52-504.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the

calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b) (i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the

proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); and

(vi) may contain other property tax information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5) (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53A-17a-133 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than $20,000 in ad valorem tax revenues for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than $20,000 of ad valorem tax revenues.

(6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) on the Utah Public Notice Website created in Section 63F-1-701.

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements

appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e) (i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

"NOTICE OF PROPOSED TAX INCREASE
(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

- The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from $_____ to $_____, which is $_____ per year.
- The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from $_____ to $_____, which is $_____ per year.
- If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45-1-101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed.

(b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be open to the public.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits.

(c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates

and times after consultation with each affected taxing entity.

(e) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(9) (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

(10) Notwithstanding any other provision of this section, the amendments to this section in Laws of Utah 2014, Chapter 256, Section 2, apply to:

(a) actions a fiscal year taxing entity is required to take with respect to the fiscal year taxing entity's budgetary process for a fiscal year that begins on or after July 1, 2014; or

(b) actions a calendar year taxing entity is required to take with respect to the calendar year taxing entity's budgetary process for a fiscal year that begins on or after January 1, 2015.

Amended by Chapter 256, 2014 General Session
Amended by Chapter 256, 2014 General Session

59-2-919.1. Notice of property valuation and tax changes.

(1) In addition to the notice requirements of Section 59-2-919, the county auditor, on or before July 22 of each year, shall notify, by mail, each owner of real estate as defined in Section 59-2-102 who is listed on the assessment roll.

(2) The notice described in Subsection (1) shall:

(a) be sent to all owners of real property by mail 10 or more days before the day on which:

(i) the county board of equalization meets; and

(ii) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;

(b) be printed on a form that is:

(i) approved by the commission; and

(ii) uniform in content in all counties in the state; and

(c) contain for each property:

(i) the assessor's determination of the value of the property;

(ii) the date the county board of equalization will meet to hear complaints on the valuation;

(iii) itemized tax information for all applicable taxing entities, including:

(A) the dollar amount of the taxpayer's tax liability for the property in the prior

year; and

(B) the dollar amount of the taxpayer's tax liability under the current rate;

(iv) the tax impact on the property;

(v) the time and place of the required public hearing for each entity;

(vi) property tax information pertaining to:

(A) taxpayer relief;

(B) options for payment of taxes; and

(C) collection procedures;

(vii) information specifically authorized to be included on the notice under this chapter;

(viii) the last property review date of the property as described in Subsection 59-2-303.1(1)(c); and

(ix) other property tax information approved by the commission.

(3) If a taxing entity that is subject to the notice and hearing requirements of Subsection 59-2-919(4) proposes a tax increase, the notice described in Subsection (1) shall state, in addition to the information required by Subsection (2):

(a) the dollar amount of the taxpayer's tax liability if the proposed increase is approved;

(b) the difference between the dollar amount of the taxpayer's tax liability if the proposed increase is approved and the dollar amount of the taxpayer's tax liability under the current rate, placed in close proximity to the information described in Subsection (2)(c)(v); and

(c) the percentage increase that the dollar amount of the taxpayer's tax liability under the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the current tax rate.

(4) Notwithstanding any other provision of this section, the amendments to this section in Laws of Utah 2014, Chapter 256, Section 3, apply to:

(a) actions a fiscal year taxing entity, as defined in Section 59-2-919, is required to take with respect to the fiscal year taxing entity's budgetary process for the fiscal year that begins on July 1, 2014; or

(b) actions a calendar year taxing entity, as defined in Section 59-2-919, is required to take with respect to the calendar year taxing entity's budgetary process for the fiscal year that begins on January 1, 2015.

Amended by Chapter 256, 2014 General Session
Amended by Chapter 256, 2014 General Session

59-2-919.2. Consolidated advertisement of public hearings.

(1) (a) Except as provided in Subsection (1)(b), on the same day on which a taxing entity provides the notice to the county required under Subsection 59-2-919(8)(a)(i), the taxing entity shall provide to the county auditor the information required by Subsection 59-2-919(8)(a)(i).

(b) A taxing entity is not required to notify the county auditor of the taxing entity's public hearing in accordance with Subsection (1)(a) if the taxing entity is exempt from the notice requirements of Section 59-2-919.

(2) If as of July 22, two or more taxing entities notify the county auditor under Subsection (1), the county auditor shall by no later than July 22 of each year:

(a) compile a list of the taxing entities that notify the county auditor under Subsection (1);

(b) include on the list described in Subsection (2)(a), the following information for each taxing entity on the list:

(i) the name of the taxing entity;

(ii) the date, time, and location of the public hearing described in Subsection 59-2-919(8)(a)(i);

(iii) the average dollar increase on a residence in the taxing entity that the proposed tax increase would generate; and

(iv) the average dollar increase on a business in the taxing entity that the proposed tax increase would generate;

(c) provide a copy of the list described in Subsection (2)(a) to each taxing entity that notifies the county auditor under Subsection (1); and

(d) in addition to the requirements of Subsection (3), if the county has a webpage, publish a copy of the list described in Subsection (2)(a) on the county's webpage until December 31.

(3) (a) At least two weeks before any public hearing included in the list under Subsection (2) is held, the county auditor shall publish:

(i) the list compiled under Subsection (2); and

(ii) a statement that:

(A) the list is for informational purposes only;

(B) the list should not be relied on to determine a person's tax liability under this chapter; and

(C) for specific information related to the tax liability of a taxpayer, the taxpayer should review the taxpayer's tax notice received under Section 59-2-919.1.

(b) Except as provided in Subsection (3)(d)(ii), the information described in Subsection (3)(a) shall be published:

(i) in no less than 1/4 page in size;

(ii) in type no smaller than 18 point; and

(iii) surrounded by a 1/4-inch border.

(c) The published information described in Subsection (3)(a) and published in accordance with Subsection (3)(d)(i) may not be placed in the portion of a newspaper where a legal notice or classified advertisement appears.

(d) A county auditor shall publish the information described in Subsection (3)(a):

(i) (A) in a newspaper or combination of newspapers that are:

(I) published at least one day per week;

(II) of general interest and readership in the county; and

(III) not of limited subject matter; and

(B) once each week for the two weeks preceding the first hearing included in the list compiled under Subsection (2); and

(ii) for two weeks preceding the first hearing included in the list compiled under Subsection (2):

(A) as required in Section 45-1-101; and

(B) on the Utah Public Notice Website created in Section 63F-1-701.

(4) A taxing entity that notifies the county auditor under Subsection (1) shall provide the list described in Subsection (2)(c) to a person:

(a) who attends the public hearing described in Subsection 59-2-919(8)(a)(i) of the taxing entity; or

(b) who requests a copy of the list.

(5) (a) A county auditor shall by no later than 30 days from the day on which the last publication of the information required by Subsection (3)(a) is made:

(i) determine the costs of compiling and publishing the list; and

(ii) charge each taxing entity included on the list an amount calculated by dividing the amount determined under Subsection (5)(a) by the number of taxing entities on the list.

(b) A taxing entity shall pay the county auditor the amount charged under Subsection (5)(a).

(6) The publication of the list under this section does not remove or change the notice requirements of Section 59-2-919 for a taxing entity.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) relating to the publication of a consolidated advertisement which includes the information described in Subsection (2) for a taxing entity that overlaps two or more counties;

(b) relating to the payment required in Subsection (5)(b); and

(c) to oversee the administration of this section and provide for uniform implementation.

Amended by Chapter 90, 2010 General Session

59-2-920. Resolution and levy to be forwarded to commission -- Exception.

The resolution approved in the manner provided under Section 59-2-919 shall be included with the statement of the amount and purpose of the levy required under Sections 59-2-912 and 59-2-913 and forwarded to the commission under Section 59-2-913. No tax rate in excess of the certified tax rate may be certified by the commission or implemented by the taxing entity until the resolution required under Section 59-2-919 is adopted by the governing authority of the taxing entity and submitted to the commission. If the resolution is not forwarded to the county auditor by August 17, the auditor shall forward the certified tax rate to the commission.

Amended by Chapter 3, 1988 General Session

59-2-921. Changes in assessment roll -- Rate adjustments -- Exemption from notice and public hearing provisions.

(1) On or before September 15 the county board of equalization and, in cases involving the original jurisdiction of the commission or an appeal from the county board of equalization, the commission, shall annually notify each taxing entity of the following

changes resulting from actions by the commission or the county board of equalization:

(a) a change in the taxing entity's assessment roll; and

(b) a change in the taxing entity's adopted tax rate.

(2) A taxing entity is not required to comply with the notice and public hearing provisions of Section 59-2-919 if the commission, the county board of equalization, or a court of competent jurisdiction:

(a) changes a taxing entity's adopted tax rate; or

(b) (i) makes a reduction in the taxing entity's assessment roll; and

(ii) the taxing entity adopts by resolution an increase in its tax rate above the certified tax rate as a result of the reduction under Subsection (2)(b)(i).

(3) A rate adjustment under this section for:

(a) a taxing entity shall be:

(i) made by the county auditor;

(ii) aggregated;

(iii) reported by the county auditor to the commission; and

(iv) certified by the commission; and

(b) the state shall be made by the commission.

Amended by Chapter 204, 2009 General Session

59-2-922. Replacement resolution for greater tax rate.

Except as provided in Section 59-2-921, if, after a taxing entity approves an initial tax rate, the taxing entity determines that a greater tax rate is required, the taxing entity shall adopt a replacement resolution after the taxing entity meets the notice and public hearing requirements of Section 59-2-919 to the extent required by Section 59-2-919.

Amended by Chapter 204, 2009 General Session

59-2-923. Expenditures of money prior to adoption of budget or tax rate.

A taxing entity may, before the taxing entity adopts a final annual budget or a tax rate, expend money on the basis of the taxing entity's:

(1) tentative budget after adoption of the tentative budget; or

(2) prior year's adopted final budget as amended, which shall be readopted by resolution at a meeting of the taxing entity's governing body.

Amended by Chapter 204, 2009 General Session

59-2-924. Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Certified tax rate -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget.

(1) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property

assessed by a county assessor in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property assessed by a county assessor in accordance with Part 3, County Assessment, from the prior year end values.

(2) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (1)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(3) (a) The "certified tax rate" means a tax rate that will provide the same ad valorem property tax revenues for a taxing entity as were budgeted by that taxing entity for the prior year.

(b) For purposes of this Subsection (3):

(i) "Ad valorem property tax revenues" do not include:

(A) interest;

(B) penalties; and

(C) revenue received by a taxing entity from personal property that is:

(I) assessed by a county assessor in accordance with Part 3, County Assessment; and

(II) semiconductor manufacturing equipment.

(ii) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property assessed by a county assessor in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable year end value of all personal property assessed by a county assessor in accordance with Part 3, County Assessment, for the prior year; and

(C) the aggregate taxable value of all real and personal property assessed by the commission in accordance with Part 2, Assessment of Property, for the current year.

(c) (i) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenues budgeted for the prior year by the taxing entity by the amount calculated under Subsection (3)(c)(ii).

(ii) For purposes of Subsection (3)(c)(i), the legislative body of a taxing entity shall calculate an amount as follows:

(A) calculate for the taxing entity the difference between:

(I) the aggregate taxable value of all property taxed; and

(II) any redevelopment adjustments for the current calendar year;

(B) after making the calculation required by Subsection (3)(c)(ii)(A), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (3)(c)(ii)(A) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(C) after making the calculation required by Subsection (3)(c)(ii)(B), calculate the product of:

(I) the amount calculated under Subsection (3)(c)(ii)(B); and

(II) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(D) after making the calculation required by Subsection (3)(c)(ii)(C), calculate an amount determined by subtracting from the amount calculated under Subsection (3)(c)(ii)(C) any new growth as defined in this section:

(I) within the taxing entity; and

(II) for the following calendar year:

(Aa) for new growth from real property assessed by a county assessor in accordance with Part 3, County Assessment and all property assessed by the commission in accordance with Section 59-2-201, the current calendar year; and

(Bb) for new growth from personal property assessed by a county assessor in accordance with Part 3, County Assessment, the prior calendar year.

(iii) For purposes of Subsection (3)(c)(ii)(A), the aggregate taxable value of all property taxed:

(A) except as provided in Subsection (3)(c)(iii)(B) or (3)(c)(ii)(C), is as defined in Subsection (3)(b)(ii);

(B) does not include the total taxable value of personal property contained on the tax rolls of the taxing entity that is:

(I) assessed by a county assessor in accordance with Part 3, County Assessment; and

(II) semiconductor manufacturing equipment; and

(C) for personal property assessed by a county assessor in accordance with Part 3, County Assessment, the taxable value of personal property is the year end value of the personal property contained on the prior year's tax rolls of the entity.

(iv) For purposes of Subsection (3)(c)(ii)(B), for calendar years beginning on or after January 1, 2007, the value of taxable property does not include the value of personal property that is:

(A) within the taxing entity assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(v) For purposes of Subsection (3)(c)(ii)(C)(II), for calendar years beginning on or after January 1, 2007, the percentage of property taxes collected does not include property taxes collected from personal property that is:

(A) within the taxing entity assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(vi) For purposes of Subsection (3)(c)(ii)(B), for calendar years beginning on or after January 1, 2009, the value of taxable property does not include the value of personal property that is within the taxing entity assessed by a county assessor in accordance with Part 3, County Assessment.

(vii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may prescribe rules for calculating redevelopment adjustments for a calendar year.

(viii) (A) Except as provided in Subsections (3)(c)(ix) and (x), for purposes of

Subsection (3)(c)(i), a taxing entity's ad valorem property tax revenues budgeted for the prior year shall be decreased by an amount of revenue equal to the five-year average of the most recent prior five years of redemptions adjusted by the five-year average redemption calculated for the prior year as reported on the county treasurer's final annual settlement required under Subsection 59-2-1365(2).

(B) A decrease under Subsection (3)(c)(viii)(A) does not apply to the multicounty assessing and collecting levy authorized in Subsection 59-2-1602(2)(a), the certified revenue levy, or the minimum basic tax rate established in Section 53A-17a-135.

(ix) As used in Subsection (3)(c)(x):

(A) "One-fourth of qualifying redemptions excess amount" means a qualifying redemptions excess amount divided by four.

(B) "Qualifying redemptions" means that, for a calendar year, a taxing entity's total amount of redemptions is greater than three times the five-year average of the most recent prior five years of redemptions calculated for the prior year under Subsection (3)(c)(viii)(A).

(C) "Qualifying redemptions base amount" means an amount equal to three times the five-year average of the most recent prior five years of redemptions for a taxing entity, as reported on the county treasurer's final annual settlement required under Subsection 59-2-1365(2).

(D) "Qualifying redemptions excess amount" means the amount by which a taxing entity's qualifying redemptions for a calendar year exceed the qualifying redemptions base amount for that calendar year.

(x) (A) If, for a calendar year, a taxing entity has qualifying redemptions, the redemption amount for purposes of calculating the five-year redemption average required by Subsection (3)(c)(viii)(A) is as provided in Subsections (3)(c)(x)(B) and (C).

(B) For the initial calendar year a taxing entity has qualifying redemptions, the taxing entity's redemption amount for that calendar year is the qualifying redemptions base amount.

(C) For each of the four calendar years after the calendar year described in Subsection (3)(c)(x)(B), one-fourth of the qualifying redemptions excess amount shall be added to the redemption amount.

(d) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules determining the calculation of ad valorem property tax revenues budgeted by a taxing entity.

(ii) For purposes of Subsection (3)(d)(i), ad valorem property tax revenues budgeted by a taxing entity shall be calculated in the same manner as budgeted property tax revenues are calculated for purposes of Section 59-2-913.

(e) The certified tax rates for the taxing entities described in this Subsection (3)(e) shall be calculated as follows:

(i) except as provided in Subsection (3)(e)(ii), for new taxing entities the certified tax rate is zero;

(ii) for each municipality incorporated on or after July 1, 1996, the certified tax rate is:

(A) in a county of the first, second, or third class, the levy imposed for

municipal-type services under Sections 17-34-1 and 17-36-9; and

(B) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(22); and

(iii) for debt service voted on by the public, the certified tax rate shall be the actual levy imposed by that section, except that the certified tax rates for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(A) school levies provided for under Sections 53A-16-113, 53A-17a-133, and 53A-17a-164; and

(B) levies to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(f) (i) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 shall be established at that rate which is sufficient to generate only the revenue required to satisfy one or more eligible judgments, as defined in Section 59-2-102.

(ii) The ad valorem property tax revenue generated by the judgment levy shall not be considered in establishing the taxing entity's aggregate certified tax rate.

(g) The ad valorem property tax revenue generated by the capital local levy described in Section 53A-16-113 within a taxing entity in a county of the first class:

(i) may not be considered in establishing the school district's aggregate certified tax rate; and

(ii) shall be included by the commission in establishing a certified tax rate for that capital outlay levy determined in accordance with the calculation described in Subsection 59-2-913(3).

(4) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(b) For purposes of Subsection (4)(a)(i), the taxable value of real property on the assessment roll does not include new growth as defined in Subsection (4)(c).

(c) "New growth" means:

(i) the difference between the increase in taxable value of the following property of the taxing entity from the previous calendar year to the current year:

(A) real property assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) property assessed by the commission under Section 59-2-201; plus

(ii) the difference between the increase in taxable year end value of personal property of the taxing entity from the year prior to the previous calendar year to the previous calendar year; minus

(iii) the amount of an increase in taxable value described in Subsection (4)(e).

(d) For purposes of Subsection (4)(c)(ii), the taxable value of personal property of the taxing entity does not include the taxable value of personal property that is:

(i) contained on the tax rolls of the taxing entity if that property is assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(e) Subsection (4)(c)(iii) applies to the following increases in taxable value:

(i) the amount of increase to locally assessed real property taxable values resulting from factoring, reappraisal, or any other adjustments; or

(ii) the amount of an increase in the taxable value of property assessed by the commission under Section 59-2-201 resulting from a change in the method of apportioning the taxable value prescribed by:

(A) the Legislature;

(B) a court;

(C) the commission in an administrative rule; or

(D) the commission in an administrative order.

(f) For purposes of Subsection (4)(a)(ii), the taxable year end value of personal property on the prior year's assessment roll does not include:

(i) new growth as defined in Subsection (4)(c); or

(ii) the total taxable year end value of personal property contained on the prior year's tax rolls of the taxing entity that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(5) (a) On or before June 22, each taxing entity shall annually adopt a tentative budget.

(b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county auditor of:

(i) its intent to exceed the certified tax rate; and

(ii) the amount by which it proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

Amended by Chapter 270, 2014 General Session

59-2-924.1. Definitions -- Commission authorized to adjust taxing entity's certified rate for clerical error -- Requirements -- Amount of adjustment.

(1) For purposes of this section:

(a) "Clerical error" means the following in an assessment roll:

(i) an omission;

(ii) an error; or

(iii) a defect in form.

(b) "Year" means the period beginning on January 1 and ending on December 31 during which there is a clerical error on the taxing entity’s assessment roll.

(2) The commission shall adjust a taxing entity’s certified tax rate as provided in Subsection (3) if the county legislative body in which the taxing entity is located certifies to the commission in writing that:

(a) the taxing entity's assessment roll contained a clerical error;
(b) the county adjusted the clerical error on the assessment roll;
(c) the taxing entity's actual collections for the year were different than the taxing entity's budgeted collections for the year; and
(d) the taxing entity notified the county legislative body of the clerical error after the county treasurer provided the tax notices under Section 59-2-1317, but no later than 60 days after the day on which the county treasurer made the final annual settlement with the taxing entity under Section 59-2-1365.
(3) (a) The adjustment under Subsection (2) is an amount equal to the lesser of:
(i) the difference between the taxing entity's budgeted collections for the year and the taxing entity's actual collections for the year; or
(ii) the amount of the clerical error.
(b) The commission shall make an adjustment under Subsection (2) no later than 90 days after the day on which the county treasurer made the final annual settlement with the taxing entity under Section 59-2-1365.

Amended by Chapter 279, 2014 General Session

59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.
(1) For purposes of this section, "certified tax rate" means a certified tax rate calculated in accordance with Section 59-2-924.
(2) Beginning January 1, 1997, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues.
(3) (a) Beginning July 1, 1997, if a county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:
(i) decreased on a one-time basis by the amount of the estimated sales and use tax revenue to be distributed to the county under Subsection 59-12-1102(3); and
(ii) increased by the amount necessary to offset the county's reduction in revenue from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1, 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection (3)(a)(i).
(b) The commission shall determine estimates of sales and use tax distributions for purposes of Subsection (3)(a).
(4) Beginning January 1, 1998, if a municipality has imposed an additional resort communities sales and use tax under Section 59-12-402, the municipality's certified tax rate shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of estimated revenue from the additional resort communities sales and use tax imposed under Section 59-12-402.
(5) (a) This Subsection (5) applies to each county that:
(i) establishes a countywide special service district under Title 17D, Chapter 1,

Special Service District Act, to provide jail service, as provided in Subsection 17D-1-201(10); and

(ii) levies a property tax on behalf of the special service district under Section 17D-1-105.

(b) (i) The certified tax rate of each county to which this Subsection (5) applies shall be decreased by the amount necessary to reduce county revenues by the same amount of revenues that will be generated by the property tax imposed on behalf of the special service district.

(ii) Each decrease under Subsection (5)(b)(i) shall occur contemporaneously with the levy on behalf of the special service district under Section 17D-1-105.

(6) (a) As used in this Subsection (6):

(i) "Annexing county" means a county whose unincorporated area is included within a public safety district by annexation.

(ii) "Annexing municipality" means a municipality whose area is included within a public safety district by annexation.

(iii) "Equalized public safety protection tax rate" means the tax rate that results from:

(A) calculating, for each participating county and each participating municipality, the property tax revenue necessary:

(I) in the case of a fire district, to cover all of the costs associated with providing fire protection, paramedic, and emergency services:

(Aa) for a participating county, in the unincorporated area of the county; and

(Bb) for a participating municipality, in the municipality; or

(II) in the case of a police district, to cover all the costs:

(Aa) associated with providing law enforcement service:

(Ii) for a participating county, in the unincorporated area of the county; and

(IIii) for a participating municipality, in the municipality; and

(Bb) that the police district board designates as the costs to be funded by a property tax; and

(B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all participating counties and all participating municipalities and then dividing that sum by the aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

(I) for participating counties, in the unincorporated area of all participating counties; and

(II) for participating municipalities, in all the participating municipalities.

(iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act:

(A) created to provide fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(c).

(v) "Participating county" means a county whose unincorporated area is included within a public safety district at the time of the creation of the public safety district.

(vi) "Participating municipality" means a municipality whose area is included

within a public safety district at the time of the creation of the public safety district.

(vii) "Police district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act, within a county of the first class:

(A) created to provide law enforcement service; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(c).

(viii) "Public safety district" means a fire district or a police district.

(ix) "Public safety service" means:

(A) in the case of a public safety district that is a fire district, fire protection, paramedic, and emergency services; and

(B) in the case of a public safety district that is a police district, law enforcement service.

(b) In the first year following creation of a public safety district, the certified tax rate of each participating county and each participating municipality shall be decreased by the amount of the equalized public safety tax rate.

(c) In the first budget year following annexation to a public safety district, the certified tax rate of each annexing county and each annexing municipality shall be decreased by an amount equal to the amount of revenue budgeted by the annexing county or annexing municipality:

(i) for public safety service; and

(ii) in:

(A) for a taxing entity operating under a January 1 through December 31 fiscal year, the prior calendar year; or

(B) for a taxing entity operating under a July 1 through June 30 fiscal year, the prior fiscal year.

(d) Each tax levied under this section by a public safety district shall be considered to be levied by:

(i) each participating county and each annexing county for purposes of the county's tax limitation under Section 59-2-908; and

(ii) each participating municipality and each annexing municipality for purposes of the municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a city.

(e) The calculation of a public safety district's certified tax rate for the year of annexation shall be adjusted to include an amount of revenue equal to one half of the amount of revenue budgeted by the annexing entity for public safety service in the annexing entity's prior fiscal year if:

(i) the public safety district operates on a January 1 through December 31 fiscal year;

(ii) the public safety district approves an annexation of an entity operating on a July 1 through June 30 fiscal year; and

(iii) the annexation described in Subsection (6)(e)(ii) takes effect on July 1.

(7) For the calendar year beginning on January 1, 2007, the calculation of a taxing entity's certified tax rate, calculated in accordance with Section 59-2-924, shall be adjusted by the amount necessary to offset any change in the certified tax rate that may result from excluding the following from the certified tax rate under Subsection

59-2-924(3) enacted by the Legislature during the 2007 General Session:

(a) personal property tax revenue:

(i) received by a taxing entity;

(ii) assessed by a county assessor in accordance with Part 3, County Assessment; and

(iii) for personal property that is semiconductor manufacturing equipment; or

(b) the taxable value of personal property:

(i) contained on the tax rolls of a taxing entity;

(ii) assessed by a county assessor in accordance with Part 3, County Assessment; and

(iii) that is semiconductor manufacturing equipment.

(8) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be reduced for any year to the extent necessary to provide a community development and renewal agency established under Title 17C, Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act, with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate, calculated in accordance with Section 59-2-924, if:

(i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);

(ii) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(iii) the decrease results in a reduction of the amount to be paid to the agency under Section 17C-1-403 or 17C-1-404.

(b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any year to the extent necessary to provide a community development and renewal agency with approximately the same amount of money as the agency would have received without an increase in the certified tax rate that year if:

(i) in that year the base taxable value under Subsection 17C-1-102(6) is reduced due to a decrease in the certified tax rate under Subsection (2) or (3)(a); and

(ii) the certified tax rate of a city, school district, local district, or special service district increases independent of the adjustment to the taxable value of the base year.

(c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a), the amount of money allocated and, when collected, paid each year to a community development and renewal agency established under Title 17C, Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act, for the payment of bonds or other contract indebtedness, but not for administrative costs, may not be less than that amount would have been without a decrease in the certified tax rate under Subsection (2) or (3)(a).

(9) (a) For the calendar year beginning on January 1, 2014, the calculation of a county assessing and collecting levy shall be adjusted by the amount necessary to offset:

(i) any change in the certified tax rate that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3; and

(ii) the difference in the amount of revenue a taxing entity receives from or

contributes to the Property Tax Valuation Agency Fund, created in Section 59-2-1602, that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3.

(b) A taxing entity is not required to comply with the notice and public hearing requirements in Section 59-2-919 for an adjustment to the county assessing and collecting levy described in Subsection (9)(a).

Amended by Chapter 270, 2014 General Session
Amended by Chapter 270, 2014 General Session

59-2-924.3. Adjustment of the calculation of the certified tax rate for a school district imposing a capital local levy in a county of the first class.

(1) As used in this section:

(a) "Capital local levy increment" means the amount of revenue equal to the difference between:

(i) the amount of revenue generated by a levy of .0006 per dollar of taxable value within a school district during a fiscal year; and

(ii) the amount of revenue the school district received during the same fiscal year from the distribution described in Section 53A-16-114.

(b) "Contributing school district" means a school district in a county of the first class that in a fiscal year receives less revenue from the distribution described in Section 53A-16-114 than it would have received during the same fiscal year from a levy imposed within the school district of .0006 per dollar of taxable value.

(c) "Receiving school district" means a school district in a county of the first class that in a fiscal year receives more revenue from the distribution described in Section 53A-16-114 than it would have received during the same fiscal year from a levy imposed within the school district of .0006 per dollar of taxable value.

(2) A receiving school district shall decrease its capital local levy certified tax rate under Subsection 59-2-924(3)(g)(ii) by the amount required to offset the receiving school district's estimated capital local levy increment for the prior fiscal year.

(3) A contributing school district is exempt from the notice and public hearing provisions of Section 59-2-919 for the school district's capital local levy certified tax rate calculated pursuant to Subsection 59-2-924(3)(g)(ii) if:

(a) the contributing school district budgets an increased amount of ad valorem property tax revenue exclusive of new growth as defined in Subsection 59-2-924(4) for the capital local levy described in Section 53A-16-113; and

(b) the increased amount of ad valorem property tax revenue described in Subsection (3)(a) is less than or equal to the difference between:

(i) the amount of revenue generated by a levy of .0006 per dollar of taxable value imposed within the contributing school district during the current taxable year; and

(ii) the amount of revenue generated by a levy of .0006 per dollar of taxable value imposed within the contributing school district during the prior taxable year.

(4) Regardless of the amount a school district receives from the revenue collected from the .0006 portion of the capital local levy required in Section

53A-16-113, the revenue generated within the school district from the .0006 portion of the capital local levy required in Section 53A-16-113 shall be considered to be budgeted ad valorem property tax revenues of the school district that levies the .0006 portion of the capital local levy for purposes of calculating the school district's certified tax rate in accordance with Subsection 59-2-924(3)(g)(ii).

Amended by Chapter 371, 2011 General Session

59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.

If the state authorizes a levy pursuant to Section 53A-17a-135 that exceeds the certified revenue levy as defined in Section 53A-17a-103 or authorizes a levy pursuant to Section 59-2-1602 that exceeds the certified revenue levy as defined in Section 59-2-102, the state shall publish a notice no later than 10 days after the last day of the annual legislative general session that meets the following requirements:

(1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state authorized a levy that generates revenue in excess of the previous year's ad valorem tax revenue, plus new growth, but exclusive of revenue from collections from redemptions, interest, and penalties:

(i) in a newspaper of general circulation in the state; and

(ii) as required in Section 45-1-101.

(b) Except an advertisement published on a website, the advertisement described in Subsection (1)(a):

(i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border:

(ii) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear; and

(iii) shall be run once.

(2) The form and content of the notice shall be substantially as follows:

"NOTICE OF TAX INCREASE

The state has budgeted an increase in its property tax revenue from $_____ to $_____ or ____%. The increase in property tax revenues will come from the following sources (include all of the following provisions):

(a) $_____ of the increase will come from (provide an explanation of the cause of adjustment or increased revenues, such as reappraisals or factoring orders);

(b) $_____ of the increase will come from natural increases in the value of the tax base due to (explain cause of new growth, such as new building activity, annexation, etc.);

(c) a home valued at $100,000 in the state of Utah which based on last year's (levy for the basic state-supported school program, levy for the Property Tax Valuation Agency Fund, or both) paid $_____ in property taxes would pay the following:

(i) $_____ if the state of Utah did not budget an increase in property tax revenue exclusive of new growth; and

(ii) $_____ under the increased property tax revenues exclusive of new growth budgeted by the state of Utah."

Amended by Chapter 388, 2009 General Session

59-2-1001. County board of equalization -- Public hearings -- Hearing officers -- Notice of decision -- Rulemaking.

(1) The county legislative body is the county board of equalization and the county auditor is the clerk of the county board of equalization.

(2) The county board of equalization shall adjust and equalize the valuation and assessment of the real and personal property within the county, subject to regulation and control by the commission, as prescribed by law. The county board of equalization shall meet and hold public hearings each year to examine the assessment roll and equalize the assessment of property in the county, including the assessment for general taxes of all taxing entities located in the county.

(3) (a) Except as provided in Subsection (3)(d), a county board of equalization may:

(i) appoint an appraiser licensed in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, as a hearing officer for the purpose of examining an applicant or a witness; or

(ii) appoint an individual who is not licensed in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, as a hearing officer for the purpose of examining an applicant or a witness if the county board of equalization determines that the individual has competency relevant to the work of a hearing officer, including competency in:

(A) real estate;

(B) finance;

(C) economics;

(D) public administration; or

(E) law.

(b) Except as provided in Subsection (3)(d), beginning on January 1, 2014, a county board of equalization may only allow an individual to serve as a hearing officer for the purposes of examining an applicant or a witness if the individual has completed a course the commission:

(i) develops in accordance with Subsection (3)(c)(i); or

(ii) approves in accordance with Subsection (3)(c)(ii).

(c) (i) On or before January 1, 2014, the commission shall develop a hearing officer training course that includes training in property valuation and administrative law.

(ii) In addition to the course the commission develops in accordance with Subsection (3)(c)(i), the commission may approve a hearing officer training course provided by a county or a private entity if the course includes training in property valuation and administrative law.

(d) A county board of equalization may not appoint a person employed by an assessor's office as a hearing officer.

(e) A hearing officer shall transmit the hearing officer's findings to the board, where a quorum shall be required for final action upon any application for exemption, deferral, reduction, or abatement.

(4) The clerk of the board of equalization shall notify the taxpayer, in writing, of any decision of the board. The decision shall include any adjustment in the amount of taxes due on the property resulting from a change in the taxable value and shall be considered the corrected tax notice.

(5) During the session of the board, the assessor or any deputy whose testimony is needed shall be present and may make any statement or introduce and examine witnesses on questions before the board.

(6) The county board of equalization may make and enforce any rule which is consistent with statute or commission rule and necessary for the government of the board, the preservation of order, and the transaction of business.

Amended by Chapter 180, 2013 General Session

59-2-1002. Change in assessment -- Force and effect -- Additional assessments -- Notice.

(1) The county board of equalization shall use all information it may gain from the records of the county or elsewhere in equalizing the assessment of the property in the county or in determining any exemptions. The board may require the assessor to enter upon the assessment roll any taxable property which has not been assessed and any assessment made has the same force and effect as if made by the assessor before the delivery of the assessment roll to the county treasurer.

(2) During its sessions, the county board of equalization may direct the assessor to:

(a) assess any taxable property which has escaped assessment;

(b) add to the amount, number, or quantity of property when a false or incomplete list has been rendered; and

(c) make and enter new assessments, at the same time cancelling previous entries, when any assessment made by the assessor is considered by the board to be incomplete or incorrect.

(3) The clerk of the board of equalization shall give written notice:

(a) to all interested persons of the day fixed for the investigation of any assessment under consideration by the board at least 30 days before action is taken; and

(b) to the assessor of a valuation adjustment made in accordance with Subsection 59-2-301.4(2) or another adjustment under this section.

Amended by Chapter 248, 2013 General Session

59-2-1003. Power of county board to increase or decrease assessment.

(1) The county board of equalization may, after giving notice as prescribed by any rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, increase or decrease any assessment contained in any assessment book, so as to equalize the assessment of all classes of property under Section 59-2-103.

(2) In accordance with any rules the commission makes in accordance with Title

63G, Chapter 3, Utah Administrative Rulemaking Act, the county board of equalization shall notify the assessor of an adjustment made in accordance with Subsection (1).

Amended by Chapter 85, 2012 General Session

59-2-1004. Appeal to county board of equalization -- Real property -- Time period for appeal -- Decision of board -- Extensions approved by commission -- Appeal to commission.

(1) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may make an application to appeal by:

(i) filing the application with the county board of equalization within the time period described in Subsection (2); or

(ii) making an application by telephone or other electronic means within the time period described in Subsection (2) if the county legislative body passes a resolution under Subsection (7) authorizing applications to be made by telephone or other electronic means.

(b) The contents of the application shall be prescribed by rule of the county board of equalization.

(2) (a) Except as provided in Subsection (2)(b), for purposes of Subsection (1), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:

(i) September 15 of the current calendar year; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor mails the notice under Section 59-2-919.1.

(b) Notwithstanding Subsection (2)(a), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection (2)(a).

(3) The owner shall include in the application under Subsection (1)(a)(i) the owner's estimate of the fair market value of the property and any evidence which may indicate that the assessed valuation of the owner's property is improperly equalized with the assessed valuation of comparable properties.

(4) In reviewing evidence submitted to a county board of equalization by or on behalf of an owner or a county assessor, the county board of equalization shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county assessor;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(5) (a) The county board of equalization shall meet and hold public hearings as

prescribed in Section 59-2-1001.

(b) The county board of equalization shall make a decision on each appeal filed in accordance with this section within a 60-day period after the day on which the application is made.

(c) The commission may approve the extension of a time period provided for in Subsection (5)(b) for a county board of equalization to make a decision on an appeal.

(d) Unless the commission approves the extension of a time period under Subsection (5)(c), if a county board of equalization fails to make a decision on an appeal within the time period described in Subsection (5)(b), the county legislative body shall:

(i) list the appeal, by property owner and parcel number, on the agenda for the next meeting of the county legislative body that is held after the expiration of the time period described in Subsection (5)(b); and

(ii) hear the appeal at the meeting described in Subsection (5)(d)(i).

(e) The decision of the board shall contain a determination of the valuation of the property based on fair market value, and a conclusion that the fair market value is properly equalized with the assessed value of comparable properties.

(f) If no evidence is presented before the county board of equalization, it will be presumed that the equalization issue has been met.

(g) (i) If the fair market value of the property that is the subject of the appeal deviates plus or minus 5% from the assessed value of comparable properties, the valuation of the appealed property shall be adjusted to reflect a value equalized with the assessed value of comparable properties.

(ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized value established under Subsection (5)(g)(i) shall be the assessed value for property tax purposes until the county assessor is able to evaluate and equalize the assessed value of all comparable properties to bring them all into conformity with full fair market value.

(6) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as prescribed in Section 59-2-1006.

(7) A county legislative body may pass a resolution authorizing taxpayers owing taxes on property assessed by that county to file property tax appeals applications under this section by telephone or other electronic means.

Amended by Chapter 180, 2013 General Session

59-2-1004.5. Valuation adjustment for decrease in taxable value caused by a natural disaster.

(1) For purposes of this section:

(a) "natural disaster" means:

(i) an explosion;

(ii) fire;

(iii) a flood;

(iv) a storm;

(v) a tornado;
(vi) winds;
(vii) an earthquake;
(viii) lightning;
(ix) any adverse weather event; or
(x) any event similar to an event described in this Subsection (1), as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
(b) "natural disaster damage" means any physical harm to property caused by a natural disaster.
(2) Except as provided in Subsection (3), if, during a calendar year, property sustains a decrease in taxable value that is caused by natural disaster damage, the owner of the property may apply to the county board of equalization for an adjustment in the taxable value of the owner's property as provided in Subsection (4).
(3) Notwithstanding Subsection (2), an owner may not receive the valuation adjustment described in this section if the decrease in taxable value described in Subsection (2) is:
(a) due to the intentional action or inaction of the owner; or
(b) less than 30% of the taxable value of the property described in Subsection (2) before the decrease in taxable value described in Subsection (2).
(4) (a) To receive the valuation adjustment described in Subsection (2), the owner of the property shall file an application for the valuation adjustment with the county board of equalization on or before the later of:
(i) the deadline described in Subsection 59-2-1004(2); or
(ii) 45 days after the day on which the natural disaster damage described in Subsection (2) occurs.
(b) The county board of equalization shall hold a hearing:
(i) within 30 days of the day on which the application described in Subsection (4)(a) is received by the board of equalization; and
(ii) following the procedures and requirements of Section 59-2-1001.
(c) At the hearing described in Subsection (4)(b), the applicant shall have the burden of proving, by a preponderance of the evidence:
(i) that the property sustained a decrease in taxable value, that:
(A) was caused by natural disaster damage; and
(B) is at least 30% of the taxable value of the property described in this Subsection (4)(c)(i) before the decrease in taxable value described in this Subsection (4)(c)(i);
(ii) the amount of the decrease in taxable value described in Subsection (4)(c)(i); and
(iii) that the decrease in taxable value described in Subsection (4)(c)(i) is not due to the action or inaction of the applicant.
(d) If the county board of equalization determines that the applicant has met the burden of proof described in Subsection (4)(c), the county board of equalization shall reduce the valuation of the property described in Subsection (4)(c)(i) by an amount equal to the decrease in taxable value of the property multiplied by the percentage of

the calendar year remaining after the natural disaster damage occurred.

(e) The decision of the board of equalization shall be provided to the applicant, in writing, within 30 days of the day on which the hearing described in Subsection (4)(b) is concluded.

(5) An applicant that is dissatisfied with a decision of the board of equalization under this section may appeal that decision under Section 59-2-1006.

Amended by Chapter 382, 2008 General Session

59-2-1004.6. Tax relief for decrease in fair market value due to access interruption.

(1) For purposes of this section "access interruption" means interruption of the normal access to or from property due to any circumstance beyond the control of the owner, including:

(a) road construction;

(b) traffic diversion;

(c) an accident;

(d) vandalism;

(e) an explosion;

(f) fire;

(g) a flood;

(h) a storm;

(i) a tornado;

(j) winds;

(k) an earthquake;

(l) lightning;

(m) any adverse weather event; or

(n) any event similar to the events described in this Subsection (1), as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) Except as provided in Subsection (3), if, during a calendar year, property sustains a decrease in fair market value that is caused by access interruption, the owner of the property may apply to the county board of equalization for an adjustment in the fair market value of the owner's property as provided in Subsection (4).

(3) Notwithstanding Subsection (2), an owner may not receive the tax relief described in this section if the decrease in fair market value described in Subsection (2) is due to the intentional action or inaction of the owner.

(4) (a) To receive the tax relief described in Subsection (2), the owner of the property shall file an application for tax relief with the county board of equalization on or before September 30.

(b) The county board of equalization shall hold a hearing:

(i) within 30 days of the day on which the application described in Subsection (4)(a) is received by the board of equalization; and

(ii) in the manner described in Section 59-2-1001.

(c) At the hearing described in Subsection (4)(b), the applicant shall have the

burden of proving, by a preponderance of the evidence:

(i) that the property sustained a decrease in fair market value, during the applicable calendar year, that was caused by access interruption;

(ii) the amount of the decrease in fair market value described in Subsection (4)(c)(i); and

(iii) that the decrease in fair market value described in Subsection (4)(c)(i) is not due to the action or inaction of the applicant.

(d) If the county board of equalization determines that the applicant has met the burden of proof described in Subsection (4)(c), the county board of equalization shall reduce the valuation of the property described in Subsection (4)(c)(i) by an amount equal to the decrease in fair market value of the property multiplied by the portion of the calendar year that the fair market value of the property was decreased.

(e) The decision of the board of equalization shall be provided to the applicant, in writing, within 30 days of the day on which the hearing described in Subsection (4)(b) is concluded.

(5) An applicant that is dissatisfied with a decision of the board of equalization under this section may appeal that decision under Section 59-2-1006.

Amended by Chapter 382, 2008 General Session

59-2-1005. Procedures for appeal of personal property valuation -- Time for appeal -- Hearing -- Decision -- Appeal to commission.

(1)(a) A taxpayer owning personal property assessed by a county assessor under Section 59-2-301 may make an appeal relating to the value of the personal property by filing an application with the county legislative body no later than:

(i) the expiration of the time allowed under Section 59-2-306 for filing a signed statement, if the county assessor requests a signed statement under Section 59-2-306; or

(ii) 60 days after the mailing of the tax notice, for each other taxpayer.

(b) A county legislative body shall:

(i) after giving reasonable notice, hear an appeal filed under Subsection (1)(a); and

(ii) render a written decision on the appeal within 60 days after receiving the appeal.

(c) If the taxpayer is dissatisfied with a county legislative body decision under Subsection (1)(b), the taxpayer may file an appeal with the commission in accordance with Section 59-2-1006.

(2) A taxpayer owning personal property subject to a fee in lieu of tax or a uniform tax under Article XIII, Section 2 of the Utah Constitution that is based on the value of the property may appeal the basis of the value by filing an appeal with the commission within 30 days after the mailing of the tax notice.

Amended by Chapter 131, 2010 General Session

59-2-1006. Appeal to commission -- Duties of auditor -- Decision by

commission.

(1) Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor within 30 days after the final action of the county board.

(2) The auditor shall:

(a) file one notice with the commission;

(b) certify and transmit to the commission:

(i) the minutes of the proceedings of the county board of equalization for the matter appealed;

(ii) all documentary evidence received in that proceeding; and

(iii) a transcript of any testimony taken at that proceeding that was preserved; and

(c) if the appeal is from a hearing where an exemption was granted or denied, certify and transmit to the commission the written decision of the board of equalization as required by Section 59-2-1102.

(3) In reviewing the county board's decision, the commission may:

(a) admit additional evidence;

(b) issue orders that it considers to be just and proper; and

(c) make any correction or change in the assessment or order of the county board of equalization.

(4) In reviewing evidence submitted to the commission by or on behalf of an owner or a county, the commission shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(5) In reviewing the county board's decision, the commission shall adjust property valuations to reflect a value equalized with the assessed value of other comparable properties if:

(a) the issue of equalization of property values is raised; and

(b) the commission determines that the property that is the subject of the appeal deviates in value plus or minus 5% from the assessed value of comparable properties.

(6) The commission shall decide all appeals taken pursuant to this section not later than March 1 of the following year for real property and within 90 days for personal property, and shall report its decision, order, or assessment to the county auditor, who shall make all changes necessary to comply with the decision, order, or assessment.

Amended by Chapter 180, 2013 General Session

59-2-1007. Objection to assessment by commission -- Application -- Contents of application -- Amending an application -- Hearings -- Appeals.

(1) (a) If the owner of any property assessed by the commission, or any county upon a showing of reasonable cause, objects to the assessment, the owner or the county may, on or before the later of June 1 or a day within 30 days of the date the notice of assessment is mailed by the commission pursuant to Section 59-2-201, apply to the commission for a hearing.

(b) The commission shall allow the following to be a party at a hearing under this section:

(i) the owner; and

(ii) the county upon a showing of reasonable cause.

(2) The owner or county shall include in the application under Subsection (1)(a):

(a) a written statement setting forth the known facts and legal basis supporting a different fair market value than the value assessed by the commission; and

(b) the owner's or county's estimate of the fair market value of the property.

(3) (a) An owner's or a county's estimate on an application under Subsection (2) of the fair market value of the property may be amended prior to the hearing as provided by rule.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the procedures for amending an estimate of fair market value under Subsection (3)(a).

(4) (a) An owner applying to the commission for a hearing in accordance with Subsection (1) shall for the property for which the owner objects to the commission's assessment file a copy of the application with the county auditor of each county in which the property is located.

(b) A county auditor receiving a copy of an application in accordance with Subsection (4)(a) shall provide a copy of the application to the county:

(i) assessor;

(ii) attorney;

(iii) legislative body; and

(iv) treasurer.

(5) (a) On or before August 1, the commission shall conduct a scheduling conference with all parties to a hearing under this section.

(b) At the scheduling conference under Subsection (5)(a), the commission shall establish dates for:

(i) the completion of discovery;

(ii) the filing of prehearing motions; and

(iii) conducting a hearing on the objection to the assessment.

(6) (a) The commission shall issue a written decision no later than 120 days after the later of:

(i) the hearing described in Subsection (5)(b) is completed; or

(ii) all posthearing briefs are submitted.

(b) Any applications not resolved by the commission within a two-year period

from the date of filing are considered to be denied, unless the parties stipulate to a different time period for resolving an application.

(c) A party may appeal to the district court pursuant to Section 59-1-601 within 30 days from the day on which an application is considered to be denied.

(7) At the hearing on the application, the commission may increase, lower, or sustain the assessment if:

(a) the commission finds an error in the assessment; or

(b) the commission determines that increasing, lowering, or sustaining the assessment is necessary to equalize the assessment with other similarly assessed property.

(8) (a) (i) The commission shall send notice of a commission action under Subsection (7) to a county auditor if:

(A) the commission proposes to adjust an assessment which was made pursuant to Section 59-2-201;

(B) the county's tax revenues may be affected by the commission's decision; and

(C) the county has not already been made a party pursuant to Subsection (1).

(ii) The written notice sent by the commission under Subsection (8)(a)(i):

(A) may be transmitted by:

(I) any form of electronic communication;

(II) first class mail; or

(III) private carrier; and

(B) shall request the county to show good cause why the commission should not adjust the assessment by requesting the county to provide to the commission a written statement:

(I) setting forth the known facts and legal basis for not adjusting the assessment; and

(II) within 30 days from the date of the notice.

(b) If a county provides to the commission a written statement in accordance with Subsection (8)(a)(ii)(B), the commission shall:

(i) hold a hearing or take other appropriate action to consider the good cause alleged by the county; and

(ii) issue a written decision increasing, lowering, or sustaining the assessment.

(c) If a county does not provide to the commission a written statement in accordance with Subsection (8)(a)(ii)(B), within 30 days after the commission sends the notice described in Subsection (8)(a), the commission shall adjust the assessment and send a copy of the commission's written decision to the county.

(9) Subsection (8) does not limit the rights of any county as described in Subsection (1).

Amended by Chapter 382, 2008 General Session

59-2-1008. Investigations by commission -- Assessment of escaped property -- Increase or decrease of assessed valuation.

(1) Each year the commission shall conduct an investigation throughout each

county of the state to determine whether all property subject to taxation is on the assessment rolls, and whether the property is being assessed at fair market value. When, after any investigation, it is found that any property which is subject to taxation is not assessed, then the commission shall direct the county assessor, the county board of equalization, or the county auditor, as it may determine, to enter the assessment of the escaped property.

(2) If it is found that any property in any county is not being assessed at its fair market value, the commission shall, for the purpose of equalizing the value of property in the state, increase or decrease the valuation of the property in order to enforce the assessment of all property subject to taxation upon the basis of its fair market value, and shall direct the county assessor, the county board of equalization, or the county auditor, as it may determine, to correct the value of the property in a manner prescribed by the commission.

(3) The county assessors, county boards of equalization, and county auditors shall make all increases or decreases as may be required by the commission to make the assessment of all property within the county conform to its fair market value.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1009. Equalization based on reports of county auditors.

Before July 7 the commission shall examine and compare the reports of the county auditors and shall equalize the assessment of the taxable property of the several counties of the state for the purpose of taxation.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1010. Statement of equalization to be sent to county auditors.

When the equalization among the several counties is completed, the commission shall transmit to each county auditor and to the state auditor a statement of the changes made by it in the assessment books of each county or any assessment contained in the book, which is prima facie evidence of the regularity of all proceedings of the commission resulting in the action which is the subject matter of the statement.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1011. Record of changes -- Form and contents of signed statement.

The county auditor shall make a record of all changes, corrections, and orders and before October 15 shall affix a signed statement to the record, subscribed by the auditor, in a form substantially as follows:

I, ____, do swear that, as county auditor of ____ county, I have kept correct minutes of all acts of the county board of equalization regarding alterations to the assessment rolls, that all alterations agreed to or directed to be made have been made and entered on the rolls, and that no changes or alterations have been made except those authorized by the board or the commission.

Amended by Chapter 86, 2000 General Session

59-2-1017. Property tax appeal assistance.

(1) As used in this section:

(a) "Licensed appraiser" means an appraiser licensed in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act.

(b) "Opinion of value" means an estimate of fair market value that:

(i) is made by a licensed appraiser; and

(ii) complies with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board as described in 12 U.S.C. Sec. 3339.

(c) "Present evidence" means to present information:

(i) to a county board of equalization or the commission; and

(ii) related to a property tax appeal made in accordance with this part.

(d) "Price estimate" means an estimate:

(i) of the price that property would sell for; and

(ii) that is not an opinion of value.

(e) "Provide property tax information" means to provide information related to a property tax appeal made in accordance with this part to another person.

(2) Subject to the other provisions of this section, a person may:

(a) present evidence in a property tax appeal on behalf of another person after obtaining permission from that other person; or

(b) provide property tax information to another person.

(3) For purposes of Subsection (2):

(a) only a person who is a licensed appraiser may present or provide an opinion of value; and

(b) only a person who is not a licensed appraiser may present or provide a price estimate.

(4) (a) A licensed appraiser who presents evidence or provides property tax information in accordance with Subsection (2) is subject to Sections 61-2g-304, 61-2g-403, 61-2g-406, and 62-2g-407.

(b) A person who is not a licensed appraiser, who presents evidence or provides property tax information in accordance with Subsection (2):

(i) is subject to Section 61-2g-407; and

(ii) if the person charges a contingent fee, is subject to Section 61-2g-406.

(5) A county board of equalization or the commission may evaluate the reliability or accuracy of evidence presented or property tax information provided in accordance with Subsection (2).

Enacted by Chapter 180, 2013 General Session

59-2-1101. Definitions -- Exemption of certain property -- Proportional payments for certain property -- County legislative body authority to adopt rules or ordinances.

(1) As used in this section:

(a) "Educational purposes" includes:

(i) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code; and

(ii) an activity in support of or incidental to the teaching, training, or conditioning described in Subsection (1)(a)(i).

(b) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes.

(c) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(d) "Nonprofit entity" includes an entity if the:

(i) entity is treated as a disregarded entity for federal income tax purposes;

(ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity; and

(iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity.

(e) "Tax relief" means an exemption, deferral, or abatement that is authorized by this part.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Notwithstanding Subsection (2)(a), a claimant may be allowed a veteran's exemption in accordance with Sections 59-2-1104 and 59-2-1105 regardless of whether the claimant is the owner of the property as of January 1 of the year the exemption is claimed if the claimant is:

(i) the unmarried surviving spouse of:

(A) a deceased veteran with a disability as defined in Section 59-2-1104; or

(B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104; or

(ii) a minor orphan of:

(A) a deceased veteran with a disability as defined in Section 59-2-1104; or

(B) a veteran who was killed in action or died in the line of duty as defined in Section 59-2-1104.

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:
(A) the state;
(B) school districts; and
(C) public libraries;
(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:
(A) counties;
(B) cities;
(C) towns;
(D) local districts;
(E) special service districts; and
(F) all other political subdivisions of the state;
(iv) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;
(v) places of burial not held or used for private or corporate benefit;
(vi) farm equipment and machinery;
(vii) intangible property; and
(viii) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:
(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and
(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.
(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act, is considered to be a school district.
(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:
(a) the new owner of the property shall pay a proportional tax based upon the period of time:
(i) beginning on the day that the new owner acquired the property; and
(ii) ending on the last day of the calendar year during which the new owner acquired the property; and
(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.
(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):
(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and
(b) applies only to property that is acquired after December 31, 2005.
(6) A county legislative body may adopt rules or ordinances to:
(a) effectuate the exemptions, deferrals, abatements, or other relief from

taxation provided in this part; and

(b) designate one or more persons to perform the functions given the county under this part.

Amended by Chapter 248, 2013 General Session

59-2-1102. Determination of exemptions by board of equalization -- Appeal -- Application for exemption -- Annual statement -- Exceptions.

(1) (a) For property assessed under Part 3, County Assessment, the county board of equalization may, after giving notice in a manner prescribed by rule, determine whether certain property within the county is exempt from taxation.

(b) The decision of the county board of equalization described in Subsection (1)(a) shall:

(i) be in writing; and

(ii) include:

(A) a statement of facts; and

(B) the statutory basis for its decision.

(c) Except as provided in Subsection (11)(a), a copy of the decision described in Subsection (1)(a) shall be sent on or before May 15 to the person applying for the exemption.

(2) The county board of equalization shall notify an owner of exempt property that has previously received an exemption but failed to file an annual statement in accordance with Subsection (9)(c), of the county board of equalization's intent to revoke the exemption on or before April 1.

(3) (a) Except as provided in Subsection (8) and subject to Subsection (9), a reduction may not be made under this part in the value of property and an exemption may not be granted under this part unless the party affected or the party's agent:

(i) makes and files with the county board of equalization a written application for the reduction or exemption, verified by signed statement; and

(ii) appears before the county board of equalization and shows facts upon which it is claimed the reduction should be made, or exemption granted.

(b) Notwithstanding Subsection (9), the county board of equalization may waive:

(i) the application or personal appearance requirements of Subsection (3)(a), (4)(b), or (9)(a); or

(ii) the annual statement requirements of Subsection (9)(c).

(4) (a) Before the county board of equalization grants any application for exemption or reduction, the county board of equalization may examine under oath the person or agent making the application.

(b) Except as provided in Subsection (3)(b), a reduction may not be made or exemption granted unless the person or the agent making the application attends and answers all questions pertinent to the inquiry.

(5) For the hearing on the application, the county board of equalization may subpoena any witnesses, and hear and take any evidence in relation to the pending application.

(6) Except as provided in Subsection (11)(b), the county board of equalization

shall hold hearings and render a written decision to determine any exemption on or before May 1 in each year.

(7) Any property owner dissatisfied with the decision of the county board of equalization regarding any reduction or exemption may appeal to the commission under Section 59-2-1006.

(8) Notwithstanding Subsection (3)(a), a county board of equalization may not require an owner of property to file an application in accordance with this section in order to claim an exemption for the property under the following:

(a) Subsections 59-2-1101(3)(a)(i) through (iii);

(b) Subsection 59-2-1101(3)(a)(vi) or (vii);

(c) Section 59-2-1110;

(d) Section 59-2-1111;

(e) Section 59-2-1112;

(f) Section 59-2-1113; or

(g) Section 59-2-1114.

(9) (a) Except as provided in Subsections (3)(b) and (9)(b), for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall, consistent with Subsection (10), require an owner of that property to file an application in accordance with this section in order to claim an exemption for that property.

(b) Notwithstanding Subsection (9)(a), a county board of equalization may not require an owner of property described in Subsection 59-2-1101(3)(a)(iv) or (v) to file an application under Subsection (9)(a) if:

(i) (A) the owner filed an application under Subsection (9)(a); or

(B) the county board of equalization waived the application requirements in accordance with Subsection (3)(b);

(ii) the county board of equalization determines that the owner may claim an exemption for that property; and

(iii) the exemption described in Subsection (9)(b)(ii) is in effect.

(c) (i) Except as provided in Subsection (3)(b), for the time period that an owner is granted an exemption in accordance with this section for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall require the owner to file an annual statement on a form prescribed by the commission establishing that the property continues to be eligible for the exemption.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing:

(A) the form for the annual statement required by Subsection (9)(c)(i);

(B) the contents of the form for the annual statement required by Subsection (9)(c)(i); and

(C) procedures and requirements for making the annual statement required by Subsection (9)(c)(i).

(iii) The commission shall make the form described in Subsection (9)(c)(ii)(A) available to counties.

(10) (a) For purposes of this Subsection (10), "exclusive use exemption" is as defined in Section 59-2-1101.

(b) (i) For purposes of Subsection (1)(a), and except as provided in Subsections

(10)(b)(ii) and (iii), when a person acquires property on or after January 1 that qualifies for an exclusive use exemption, that person may apply for the exclusive use exemption on or before the later of:

(A) the day set by rule as the deadline for filing a property tax exemption application; or

(B) 30 days after the day on which the property is acquired.

(ii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after January 1, 2004, and before January 1, 2005, that qualifies for an exclusive use exemption, may apply for the exclusive use exemption for the 2004 calendar year on or before September 30, 2005.

(iii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after January 1, 2005, and before January 1, 2006, that qualifies for an exclusive use exemption, may apply for the exclusive use exemption for the 2005 calendar year on or before the later of:

(A) September 30, 2005; or

(B) 30 days after the day on which the property is acquired.

(11) (a) Notwithstanding Subsection (1)(c), if an application for an exemption is filed under Subsection (10), a county board of equalization shall send a copy of the decision described in Subsection (1)(c) to the person applying for the exemption on or before the later of:

(i) May 15; or

(ii) 45 days after the day on which the application for the exemption is filed.

(b) Notwithstanding Subsection (6), if an application for an exemption is filed under Subsection (10), a county board of equalization shall hold the hearing and render the decision described in Subsection (6) on or before the later of:

(i) May 1; or

(ii) 30 days after the day on which the application for the exemption is filed.

Amended by Chapter 369, 2012 General Session

59-2-1103. State lands exemption -- Exceptions to exemption.

(1) Lands to which title remains in the state, which are held or occupied by any person under a contract of sale or lease from the state, are exempt from taxation.

(2) This section does not exempt the taxation of:

(a) improvements on state lands;

(b) (i) any interest in state lands to the extent of money paid or due in part payment of the purchase price, regardless of whether an extension of payment was granted prior to the levying of this tax; or

(ii) any interest remaining in the state in state lands after subtracting amounts paid or due in part payment of the purchase price as provided in Subsection (2)(b)(i) under a contract of sale that is subject to the privilege tax under Subsection 59-4-101(1)(b); or

(c) land otherwise subject to the privilege tax under Section 59-4-101.

(3) (a) If final payment has been made under Subsection (1) on state lands, the contract of sale shall be regarded as passing title to the purchaser or assignee.

(b) The state agency from which the interest was purchased shall certify the receipt of final payment to the commission.

(4) Any tax levied on the interest of a purchaser of state lands before title passes to the purchaser or assignee shall be collected in the same manner as taxes on personal property.

(5) The interest of a purchaser of state lands is subject to sale for delinquent taxes in the same manner as personal property.

(6) (a) If any interest in state lands is sold for delinquent taxes, the officer making the sale shall issue a certificate of sale.

(b) When filed with the state agency from which the interest was purchased, the certificate or certified copy operates as an assignment of the interest of the original purchaser or assignee to the purchaser at the tax sale.

Amended by Chapter 155, 1996 General Session

59-2-1104. Definitions -- Armed Forces exemption -- Amount of Armed Forces exemption.

(1) As used in this section and Section 59-2-1105:

(a) "Active component of the United States Armed Forces" is as defined in Section 59-10-1027.

(b) "Adjusted taxable value limit" means:

(i) for the year 2005, $200,000; and

(ii) for each year after 2005, the amount of the adjusted taxable value limit for the previous year, plus an amount calculated by multiplying the amount of the adjusted taxable value limit for the previous year by the actual percent change in the Consumer Price Index during the previous calendar year.

(c) "Claimant" means:

(i) a veteran with a disability who files an application under Section 59-2-1105 for a veteran's exemption;

(ii) the unmarried surviving spouse:

(A) of a:

(I) deceased veteran with a disability; or

(II) veteran who was killed in action or died in the line of duty; and

(B) who files an application under Section 59-2-1105 for a veteran's exemption;

(iii) a minor orphan:

(A) of a:

(I) deceased veteran with a disability; or

(II) veteran who was killed in action or died in the line of duty; and

(B) who files an application under Section 59-2-1105 for a veteran's exemption; or

(iv) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

(d) "Consumer price index" is as described in Section 1(f)(4), Internal Revenue Code, and defined in Section 1(f)(5), Internal Revenue Code.

(e) "Deceased veteran with a disability" means a deceased person who was a veteran with a disability at the time the person died.

(f) "Military entity" means:

(i) the federal Department of Veterans Affairs;

(ii) an active component of the United States Armed Forces; or

(iii) a reserve component of the United States Armed Forces.

(g) "Qualifying active duty military service" means:

(i) at least 200 days in a calendar year, regardless of whether consecutive, of active duty military service outside the state in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces; or

(ii) the completion of at least 200 consecutive days of active duty military service outside the state:

(A) in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces; and

(B) that began in the prior year, if those days of active duty military service outside the state in the prior year were not counted as qualifying active duty military service for purposes of this section or Section 59-2-1105 in the prior year.

(h) "Reserve component of the United States Armed Forces" is as defined in Section 59-10-1027.

(i) "Residence" is as defined in Section 59-2-1202, except that a rented dwelling is not considered to be a residence.

(j) "Veteran who was killed in action or died in the line of duty" means a person who was killed in action or died in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces, regardless of whether that person had a disability at the time that person was killed in action or died in the line of duty.

(k) "Veteran with a disability" means a person with a disability who, during military training or a military conflict, acquired a disability in the line of duty in an active component of the United States Armed Forces or a reserve component of the United States Armed Forces.

(l) "Veteran's exemption" means a property tax exemption provided for in Subsection (2).

(2) (a) The amount of taxable value of the property described in Subsection (2)(b) is exempt from taxation as calculated under Subsections (2)(c) through (e) if the property described in Subsection (2)(b) is owned by:

(i) a veteran with a disability;

(ii) the unmarried surviving spouse or a minor orphan of a:

(A) deceased veteran with a disability; or

(B) veteran who was killed in action or died in the line of duty; or

(iii) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

(b) Subsection (2)(a) applies to the following property:

(i) the claimant's primary residence;

(ii) for a claimant described in Subsection (2)(a)(i) or (ii), tangible personal

property that:

(A) is held exclusively for personal use; and

(B) is not used in a trade or business; or

(iii) for a claimant described in Subsection (2)(a)(i) or (ii), a combination of Subsections (2)(b)(i) and (ii).

(c) Except as provided in Subsection (2)(d) or (e), the amount of taxable value of property described in Subsection (2)(b) that is exempt under Subsection (2)(a) is:

(i) as described in Subsection (2)(f), if the property is owned by:

(A) a veteran with a disability;

(B) the unmarried surviving spouse of a deceased veteran with a disability; or

(C) a minor orphan of a deceased veteran with a disability; or

(ii) equal to the total taxable value of the claimant's property described in Subsection (2)(b) if the property is owned by:

(A) the unmarried surviving spouse of a veteran who was killed in action or died in the line of duty;

(B) a minor orphan of a veteran who was killed in action or died in the line of duty; or

(C) a member of an active component of the United States Armed Forces or a reserve component of the United States Armed Forces who performed qualifying active duty military service.

(d) (i) Notwithstanding Subsection (2)(c)(i) and subject to Subsection (2)(d)(ii), a veteran's exemption except for a claimant described in Subsection (2)(a)(iii) may not be allowed under this Subsection (2) if the percentage of disability listed on the certificate described in Subsection 59-2-1105(3)(a) is less than 10%.

(ii) A veteran with a disability is considered to have a 100% disability, regardless of the percentage of disability listed on a certificate described in Subsection 59-2-1105(3)(a), if the United States Department of Veterans Affairs certifies the veteran in the classification of individual unemployability.

(e) Notwithstanding Subsection (2)(c)(i), a claimant who is the unmarried surviving spouse or minor orphan of a deceased veteran with a disability may claim an exemption for the total value of the property described in Subsection (2)(b) if:

(i) the deceased veteran with a disability served in the military service of the United States or the state prior to January 1, 1921; and

(ii) the percentage of disability listed on the certificate described in Subsection 59-2-1105(3)(a) for the deceased veteran with a disability is 10% or more.

(f) Except as provided in Subsection (2)(g), the amount of the taxable value of the property described in Subsection (2)(b) that is exempt under Subsection (2)(c)(i) is equal to the percentage of disability listed on the certificate described in Subsection 59-2-1105(3)(a) multiplied by the adjusted taxable value limit.

(g) Notwithstanding Subsection (2)(f), the amount of the taxable value of the property described in Subsection (2)(b) that is exempt under Subsection (2)(c)(i) may not be greater than the taxable value of the property described in Subsection (2)(b).

(h) For purposes of this section and Section 59-2-1105, a person who received an honorable or general discharge from military service of an active component of the United States Armed Forces or a reserve component of the United States Armed

Forces:

(i) is presumed to be a citizen of the United States; and

(ii) may not be required to provide additional proof of citizenship to establish that the person is a citizen of the United States.

(3) The Department of Veterans' and Military Affairs created in Section 71-8-2 shall, through an informal hearing held in accordance with Title 63G, Chapter 4, Administrative Procedures Act, resolve each dispute arising under this section concerning a veteran's status as a veteran with a disability.

Amended by Chapter 85, 2014 General Session

59-2-1105. Application for United States Armed Forces exemption -- Rulemaking authority -- Statement -- County authority to make refunds.

(1) (a) Except as provided in Subsection 59-2-1101(2)(c), an exemption under Section 59-2-1104 may be allowed only if the interest of the claimant is on record on January 1 of the year the exemption is claimed.

(b) If the claimant has an interest in real property under a contract, the exemption under Section 59-2-1104 may be allowed if it is proved to the satisfaction of the county that the claimant is:

(i) the purchaser under the contract; and

(ii) obligated to pay the taxes on the property beginning January 1 of the year the exemption is claimed.

(c) If the claimant is the grantor of a trust holding title to real or tangible personal property on which an exemption under Section 59-2-1104 is claimed, the claimant may claim the portion of the exemption under Section 59-2-1104 and be treated as the owner of that portion of the property held in trust for which the claimant proves to the satisfaction of the county that:

(i) title to the portion of the trust will revest in the claimant upon the exercise of a power:

(A) by:

(I) the claimant as grantor of the trust;

(II) a nonadverse party; or

(III) both the claimant and a nonadverse party; and

(B) regardless of whether the power is a power:

(I) to revoke;

(II) to terminate;

(III) to alter;

(IV) to amend; or

(V) to appoint;

(ii) the claimant is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the claimant claims the exemption; and

(iii) the claimant meets the requirements under this part for the exemption.

(2) (a) (i) A claimant applying for an exemption under Section 59-2-1104 shall file an application:

(A) with the county in which that claimant resides; and

(B) except as provided in Subsection (2)(b) or (e), on or before September 1 of the year in which that claimant is applying for the exemption in accordance with this section.

(ii) A county shall provide a claimant who files an application for an exemption in accordance with this section with a receipt:

(A) stating that the county received the claimant's application; and

(B) no later than 30 days after the day on which the claimant filed the application in accordance with this section.

(b) Notwithstanding Subsection (2)(a)(i)(B) or (2)(e):

(i) subject to Subsection (2)(b)(iv), for a claimant who applies for an exemption under Section 59-2-1104 on or after January 1, 2004, a county shall extend the deadline for filing the application required by Subsection (2)(a) to September 1 of the year after the year the claimant would otherwise be required to file the application under Subsection (2)(a)(i)(B) if:

(A) on or after January 1, 2004, a military entity issues a written decision that the:

(I) veteran has a disability; or

(II) deceased veteran with a disability with respect to whom the claimant applies for a veteran's exemption had a disability at the time the deceased veteran with a disability died; and

(B) the date the written decision described in Subsection (2)(b)(i)(A) takes effect is in any year prior to the current calendar year;

(ii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for an exemption under Section 59-2-1104 on or after January 1, 2004, a county shall allow the claimant to amend the application required by Subsection (2)(a) on or before September 1 of the year after the year the claimant filed the application under Subsection (2)(a)(i)(B) if:

(A) on or after January 1, 2004, a military entity issues a written decision that the percentage of disability has changed for the:

(I) veteran with a disability; or

(II) deceased veteran with a disability with respect to whom the claimant applies for the exemption; and

(B) the date the written decision described in Subsection (2)(b)(ii)(A) takes effect is in any year prior to the current calendar year;

(iii) subject to Subsections (2)(b)(iv) and (2)(d), for a claimant who applies for an exemption under Section 59-2-1104 on or after January 1, 2004, a county shall extend the deadline for filing the application required by Subsection (2)(a) to September 1 of the year after the year the claimant would otherwise be required to file the application under Subsection (2)(a)(i)(B) if the county legislative body determines that:

(A) the claimant or a member of the claimant's immediate family had an illness or injury that prevented the claimant from filing the application on or before the deadline for filing the application established in Subsection (2)(a)(i)(B);

(B) a member of the claimant's immediate family died during the calendar year the claimant was required to file the application under Subsection (2)(a)(i)(B);

(C) the claimant was not physically present in the state for a time period of at

least six consecutive months during the calendar year the claimant was required to file the application under Subsection (2)(a)(i)(B); or

(D) the failure of the claimant to file the application on or before the deadline for filing the application established in Subsection (2)(a)(i)(B):

(I) would be against equity or good conscience; and

(II) was beyond the reasonable control of the claimant; and

(iv) a county may extend the deadline for filing an application or amending an application under this Subsection (2) until December 31 if the county finds that good cause exists to extend the deadline.

(c) The following shall accompany the initial application for an exemption under Section 59-2-1104:

(i) a copy of the veteran's certificate of discharge from military service; or

(ii) other satisfactory evidence of eligible military service, including orders for qualifying active duty military service, if applicable.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) establish procedures and requirements for amending an application under Subsection (2)(b)(ii);

(ii) for purposes of Subsection (2)(b)(iii), define the terms:

(A) "immediate family"; or

(B) "physically present"; or

(iii) for purposes of Subsection (2)(b)(iii), prescribe the circumstances under which the failure of a claimant to file an application on or before the deadline for filing the application established in Subsection (2)(a)(i)(B):

(A) would be against equity or good conscience; and

(B) is beyond the reasonable control of a claimant.

(e) Except as provided in Subsection (2)(g), if a claimant has on file with the county the application described in Subsection (2)(a), the county may not require the claimant to file another application described in Subsection (2)(a) unless:

(i) the claimant applies all or a portion of an exemption under Section 59-2-1104 to any tangible personal property;

(ii) the percentage of disability has changed for the:

(A) veteran with a disability; or

(B) deceased veteran with a disability with respect to whom a claimant applies for a veteran's exemption under this section;

(iii) the veteran with a disability dies;

(iv) the claimant's ownership interest in the claimant's primary residence changes;

(v) the claimant's occupancy of the primary residence for which the claimant claims an exemption under Section 59-2-1104 changes; or

(vi) the claimant who files an application for an exemption under Section 59-2-1104 with respect to a deceased veteran with a disability or veteran who was killed in action or died in the line of duty is a person other than the claimant who filed the application described in Subsection (2)(a) for the exemption:

(A) for the calendar year immediately preceding the current calendar year; and

(B) with respect to that deceased veteran with a disability or veteran who was killed in action or died in the line of duty.

(f) The county may verify that the real property that is residential property for which the claimant claims an exemption under Section 59-2-1104 is the claimant's primary residence.

(g) A member of an active component of the United States Armed Forces or reserve component of the United States Armed Forces who performed qualifying active duty military service shall:

(i) file the application described in Subsection (2)(a) in the year after the year during which the member completes the qualifying active duty military service; and

(ii) if the member meets the requirements of Section 59-2-1104 and this section to receive an exemption under Section 59-2-1104, claim one exemption only in the year the member files the application described in Subsection (2)(g)(i).

(3) (a) (i) Subject to Subsection (3)(a)(ii), a claimant except for a claimant described in Subsection (2)(g) who files an application for an exemption under Section 59-2-1104 shall have on file with the county a statement:

(A) issued by a military entity; and

(B) listing the percentage of disability for the veteran with a disability or deceased veteran with a disability with respect to whom a claimant applies for the exemption.

(ii) If a claimant except for a claimant described in Subsection (2)(g) has on file with the county the statement described in Subsection (3)(a)(i), the county may not require the claimant to file another statement described in Subsection (3)(a)(i) unless:

(A) the claimant who files an application under this section for an exemption under Section 59-2-1104 with respect to a deceased veteran with a disability or veteran who was killed in action or died in the line of duty is a person other than the claimant who filed the statement described in Subsection (3)(a)(i) for the exemption:

(I) for the calendar year immediately preceding the current calendar year; and

(II) with respect to that deceased veteran with a disability or veteran who was killed in action or died in the line of duty; or

(B) the percentage of disability has changed for a:

(I) veteran with a disability; or

(II) deceased veteran with a disability with respect to whom the claimant applies for an exemption under Section 59-2-1104.

(b) For a claimant filing an application in accordance with Subsection (2)(b)(i), the claimant shall include with the application required by Subsection (2) a statement issued by a military entity listing the date the written decision described in Subsection (2)(b)(i)(A) takes effect.

(c) For a claimant amending an application in accordance with Subsection (2)(b)(ii), the claimant shall provide to the county a statement issued by a military entity listing the date the written decision described in Subsection (2)(b)(ii)(A) takes effect.

(4) (a) For purposes of this Subsection (4):

(i) "Property taxes due" means the taxes due on a claimant's property:

(A) for which an exemption under Section 59-2-1104 is granted by a county; and

(B) for the calendar year for which the exemption is granted.

(ii) "Property taxes paid" is an amount equal to the sum of:

(A) the amount of the property taxes the claimant paid for the calendar year for which the claimant is applying for an exemption under Section 59-2-1104; and

(B) the exemption the county granted for the calendar year described in Subsection (4)(a)(ii)(A).

(b) A county granting an exemption under Section 59-2-1104 to a claimant shall refund to that claimant an amount equal to the amount by which the claimant's property taxes paid exceed the claimant's property taxes due, if that amount is $1 or more.

Amended by Chapter 19, 2013 General Session

59-2-1106. Exemption of property owned by blind persons or their unmarried surviving spouses or minor orphans -- Amount -- Application -- County authority to make refunds.

(1) (a) Subject to Subsections (2) and (3), the first $11,500 of taxable value of real and tangible personal property in this state owned by the following is exempt from taxation:

(i) a blind person;

(ii) the unmarried surviving spouse of a blind person; or

(iii) a minor orphan of a blind person.

(b) If the claimant is the grantor of a trust holding title to real or tangible personal property on which an exemption is claimed, the claimant may claim the portion of the exemption under this section and be treated as the owner of that portion of the property held in trust for which the claimant proves to the satisfaction of the county that:

(i) title to the portion of the trust will revest in the claimant upon the exercise of a power:

(A) by:

(I) the claimant as grantor of the trust;

(II) a nonadverse party; or

(III) both the claimant and a nonadverse party; and

(B) regardless of whether the power is a power:

(I) to revoke;

(II) to terminate;

(III) to alter;

(IV) to amend; or

(V) to appoint;

(ii) the claimant is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the claimant claims the exemption; and

(iii) the claimant meets the requirements under this part for the exemption.

(2) (a) Every person claiming the exemption under Subsection (1) shall file an application:

(i) on or before September 1 in each year; and

(ii) with the county in which the person resides.

(b) A county may extend the deadline for filing under Subsection (2)(a) until December 31 if the county finds that good cause exists to extend the deadline.

(3) The first year's application shall be accompanied by a statement signed by a licensed ophthalmologist verifying that the person:

(a) has no more than 20/200 visual acuity in the better eye when corrected; or

(b) has, in the case of better than 20/200 central vision, a restriction of the field of vision in the better eye which subtends an angle of vision no greater than 20 degrees.

(4) (a) For purposes of this Subsection (4):

(i) "Property taxes due" means the taxes due on a person's property:

(A) for which an exemption is granted by a county under this section; and

(B) for the calendar year for which the exemption is granted.

(ii) "Property taxes paid" is an amount equal to the sum of:

(A) the amount of the property taxes the person paid for the taxable year for which the person is applying for the exemption; and

(B) the amount of tax the county exempts under this section.

(b) A county granting an exemption to a person under this section shall refund to that person an amount equal to the amount by which the person's property taxes paid exceed the person's property taxes due, if that amount is $1 or more.

Amended by Chapter 221, 2001 General Session
Amended by Chapter 310, 2001 General Session

59-2-1107. Indigent persons -- Amount of abatement.

The county may remit or abate the taxes of any poor person meeting the requirements of Section 59-2-1109 in an amount not exceeding the lesser of:

(1) the amount provided as a homeowner's credit for the lowest household income bracket under Section 59-2-1208; or

(2) 50% of the total tax levied for the current year.

Amended by Chapter 221, 2001 General Session
Amended by Chapter 310, 2001 General Session

59-2-1108. Indigent persons -- Deferral of taxes -- Interest rate -- Treatment of deferred taxes.

(1) (a) The county may, after giving notice, defer any tax levied on real property that is residential property, subject to the conditions of Section 59-2-1109.

(b) If the owner of the property described in Subsection (1)(a) is poor, the property may not be subjected to a tax sale during the period of deferment.

(2) (a) Taxes deferred by the county accumulate with interest as a lien against the property until the property is sold or otherwise disposed of.

(b) Deferred taxes under this section:

(i) bear interest at an interest rate equal to the lesser of:

(A) 6%; or

(B) the federal funds rate target:

(I) established by the Federal Open Markets Committee; and

(II) that exists on the January 1 immediately preceding the day on which the

taxes are deferred; and

(ii) have the same status as a lien under Sections 59-2-1301 and 59-2-1325.

(3) Deferral may be granted by the county at any time if:

(a) the holder of any mortgage or trust deed outstanding on the property gives written approval of the application; and

(b) the applicant is not the owner of income producing assets that could be liquidated to pay the tax.

(4) Any assets transferred to relatives in the prior three-year period shall be considered by the county in making the county's determination.

Amended by Chapter 19, 2013 General Session

59-2-1109. Indigent persons -- Deferral or abatement -- Application -- County authority to make refunds.

(1) A person under the age of 65 years is not eligible for a deferral or abatement provided for poor people under Sections 59-2-1107 and 59-2-1108 unless:

(a) the county finds that extreme hardship would prevail if the grants were not made; or

(b) the person has a disability.

(2) (a) An application for the deferral or abatement shall be filed on or before September 1 with the county in which the property is located.

(b) The application shall include a signed statement setting forth the eligibility of the applicant for the deferral or abatement.

(c) Both husband and wife shall sign the application if the husband and wife seek a deferral or abatement on a residence:

(i) in which they both reside; and

(ii) which they own as joint tenants.

(d) A county may extend the deadline for filing under Subsection (2)(a) until December 31 if the county finds that good cause exists to extend the deadline.

(3) (a) For purposes of this Subsection (3):

(i) "Property taxes due" means the taxes due on a person's property:

(A) for which an abatement is granted by a county under Section 59-2-1107; and

(B) for the calendar year for which the abatement is granted.

(ii) "Property taxes paid" is an amount equal to the sum of:

(A) the amount of the property taxes the person paid for the taxable year for which the person is applying for the abatement; and

(B) the amount of the abatement the county grants under Section 59-2-1107.

(b) A county granting an abatement to a person under Section 59-2-1107 shall refund to that person an amount equal to the amount by which the person's property taxes paid exceed the person's property taxes due, if that amount is $1 or more.

(4) For purposes of this section:

(a) a poor person is any person:

(i) whose total household income as defined in Section 59-2-1202 is less than the maximum household income certified to a homeowner's credit under Subsection

59-2-1208(1);

(ii) who resides for not less than 10 months of each year in the residence for which the tax relief, deferral, or abatement is requested; and

(iii) who is unable to meet the tax assessed on the person's real property that is residential property as the tax becomes due; and

(b) "residence" includes a mobile home as defined under Section 70D-2-102.

(5) If the claimant is the grantor of a trust holding title to real or tangible personal property on which an abatement or deferral is claimed, the claimant may claim the portion of the abatement or deferral under Section 59-2-1107 or 59-2-1108 and be treated as the owner of that portion of the property held in trust for which the claimant proves to the satisfaction of the county that:

(a) title to the portion of the trust will revest in the claimant upon the exercise of a power:

(i) by:

(A) the claimant as grantor of the trust;

(B) a nonadverse party; or

(C) both the claimant and a nonadverse party; and

(ii) regardless of whether the power is a power:

(A) to revoke;

(B) to terminate;

(C) to alter;

(D) to amend; or

(E) to appoint;

(b) the claimant is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the claimant claims the abatement or deferral; and

(c) the claimant meets the requirements under this part for the abatement or deferral.

(6) The commission shall adopt rules to implement this section.

(7) Any poor person may qualify for:

(a) the deferral of taxes under Section 59-2-1108;

(b) if the person meets the requisites of this section, for the abatement of taxes under Section 59-2-1107; or

(c) both:

(i) the deferral described in Subsection (7)(a); and

(ii) the abatement described in Subsection (7)(b).

Amended by Chapter 19, 2013 General Session
Amended by Chapter 278, 2013 General Session

59-2-1110. Exemption of property used to furnish power for irrigation purposes -- Computation of power used for irrigation.

(1) Power plants, power transmission lines, and other property used for generating and delivering electrical power, a portion of which is used for furnishing power for pumping water for irrigation purposes on lands in this state, are exempt from taxation, subject to the conditions of this section.

(2) For purposes of the exemption under Subsection (1), the commission shall determine:

(a) the total amount of electric power distributed by each distributor for all purposes within this state; and

(b) the total amount of electric power distributed by each distributor which was used exclusively for pumping water for the irrigation of lands within this state.

(3) The commission shall exempt from the total property assessment on all properties assessed within this state used for generating and distributing electrical power, that portion which the total amount of electric power used exclusively for pumping water for irrigation purposes bears to the total amount of electric power distributed within this state.

(4) The total amount of tax exempted shall be prorated among the distributors. The distributors shall prorate the benefits among the users according to the amount of power used for pumping water for irrigation purposes by each user.

(5) The commission may adopt and enforce all rules necessary to determine the exemption and prorate the benefits provided in this section.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1111. Exemption of property used for irrigation purposes -- Exemption of a nonprofit entity's property used for water purposes.

(1) Water rights, ditches, canals, reservoirs, power plants, pumping plants, transmission lines, pipes, and flumes owned and used by individuals or corporations for irrigating land within the state owned by those individuals or corporations, or by the individual members of the corporation, are exempt from taxation to the extent that they are owned and used for irrigation purposes.

(2) (a) As used in this Subsection (2) and for purposes of Article XIII, Section 3 of the Utah Constitution:

(i) "Domestic water" means water used for a residential or commercial application, including the outdoor watering of vegetation.

(ii) "Other water infrastructure" means property, other than a reservoir, pumping plant, ditch, canal, pipe, or flume, whose use is physically necessary in the production, treatment, storage, or distribution of water.

(b) If owned by a nonprofit entity and used within the state to irrigate land, provide domestic water, or provide water to a public water supplier, the following are exempt from taxation:

(i) a water right;

(ii) a reservoir, pumping plant, ditch, canal, pipe, and flume; and

(iii) other water infrastructure.

(c) Land occupied by a reservoir, ditch, canal, or pipe that is exempt under Subsection (2)(b)(ii) is exempt if the land is owned by the nonprofit entity that owns the reservoir, ditch, canal, or pipe.

(d) Land immediately adjacent to a reservoir, ditch, canal, or pipe that is exempt under Subsection (2)(b)(ii) is exempt if the land is:

(i) owned by the nonprofit entity that owns the adjacent reservoir, ditch, canal,

or pipe; and

(ii) reasonably necessary for the maintenance or for otherwise supporting the operation of the reservoir, ditch, canal, or pipe.

Amended by Chapter 50, 2010 General Session

59-2-1112. Livestock exemption.

Livestock in Utah, as defined in Section 59-2-102, is exempt from ad valorem property taxation.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1113. Exemption of household furnishings.

Household furnishings, furniture, and equipment used exclusively by the owner at the owner's place of abode in maintaining a home for the owner and the owner's family are exempt from property taxation.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1114. Exemption of inventory or other tangible personal property held for sale.

(1) Tangible personal property present in Utah on the assessment date, at noon, held for sale in the ordinary course of business or for shipping to a final out-of-state destination within 12 months and which constitutes the inventory of any retailer, wholesaler, distributor, processor, warehouseman, manufacturer, producer, gatherer, transporter, storage provider, farmer, or livestock raiser, is exempt from property taxation.

(2) This exemption does not apply to:

(a) inventory which is not otherwise subject to personal property taxation;

(b) mines;

(c) natural deposits; or

(d) a manufactured home or mobile home which is sited at a location where occupancy could take place.

(3) As used in this section:

(a) "Assessment date" means:

(i) for tangible personal property and vehicles other than vehicles described in Subsection (3)(a)(ii), January 1; and

(ii) for vehicles brought into Utah from out-of-state, the date the vehicles are brought into Utah.

(b) "Inventory" means all items of tangible personal property described as materials, containers, goods in process, finished goods, severed minerals, and other personal property owned by or in possession of the person claiming the exemption.

(c) (i) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(ii) "Mine" does not mean a severed mineral.

(d) "Natural deposit" means a metalliferous or nonmetalliferous mineral located at or below ground level that has not been severed or extracted from its natural state.

(e) "Severed mineral" means any mineral that has been previously severed or extracted from a natural deposit including severed or extracted minerals that:

(i) are stored above, below, or within the ground; and

(ii) are ultimately recoverable for future sale.

(4) The commission may adopt rules to implement the inventory exemption.

Amended by Chapter 324, 2010 General Session

59-2-1115. Exemption of certain tangible personal property.

(1) For purposes of this section:

(a) (i) "Acquisition cost" means all costs required to put an item of tangible personal property into service; and

(ii) includes:

(A) the purchase price for a new or used item;

(B) the cost of freight and shipping;

(C) the cost of installation, engineering, erection, or assembly; and

(D) sales and use taxes.

(b) (i) "Item of taxable tangible personal property" does not include an improvement to real property or a part that will become an improvement.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "item of taxable tangible personal property."

(c) (i) "Taxable tangible personal property" means tangible personal property that is subject to taxation under this chapter.

(ii) "Taxable tangible personal property" does not include:

(A) tangible personal property required by law to be registered with the state before it is used:

(I) on a public highway;

(II) on a public waterway;

(III) on public land; or

(IV) in the air;

(B) a mobile home as defined in Section 41-1a-102; or

(C) a manufactured home as defined in Section 41-1a-102.

(2) (a) The taxable tangible personal property of a taxpayer is exempt from taxation if the taxable tangible personal property has a total aggregate taxable value per county of $10,000 or less.

(b) In addition to the exemption under Subsection (2)(a), an item of taxable tangible personal property, except for an item of noncapitalized personal property as defined in Section 59-2-108, is exempt from taxation if the item of taxable tangible personal property:

(i) has an acquisition cost of $1,000 or less;

(ii) has reached a percent good of 15% or less according to a personal property schedule published by the commission pursuant to Section 59-2-107; and

(iii) is in a personal property schedule with a residual value of 15% or less.

(3) (a) For calendar years beginning on or after January 1, 2015, the commission shall increase the dollar amount described in Subsection (2)(a):

(i) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2013; and

(ii) up to the nearest $100 increment.

(b) For purposes of this Subsection (3), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(c) If the percentage difference under Subsection (3)(a)(i) is zero or a negative percentage, the consumer price index increase for the year is zero.

(4) (a) For the first calendar year in which a taxpayer qualifies for an exemption described in Subsection (2), a county assessor may require the taxpayer to file a signed statement described in Section 59-2-306.

(b) Notwithstanding Section 59-2-306 and subject to Subsection (5), for a calendar year in which a taxpayer qualifies for an exemption described in Subsection (2) after the calendar year described in Subsection (4)(a), a signed statement described in Section 59-2-306 with respect to the taxable tangible personal property that is exempt under Subsection (2) may only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for the exemption under Subsection (2).

(5) A signed statement with respect to qualifying exempt primary residential rental personal property is as provided in Section 59-2-103.5.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to administer this section and provide for uniform implementation.

Amended by Chapter 19, 2013 General Session
Amended by Chapter 147, 2013 General Session

59-2-1201. Purpose of part.

The purpose of this part is to provide general property tax relief for certain persons who own or rent their places of residence through a system of tax credits, refunds, and appropriations from the General Fund. The relief is to offset in part the general tax burden, a significant portion of which, directly or indirectly, is represented by property tax. Accordingly, the tax relief provided by this part is determined in part by reference to the property tax assessment and collection mechanisms, but, however, is not limited to property tax relief nor is it formulated upon the Legislature's power to relieve those taxes. It is for the general relief of all taxes.

Renumbered and Amended by Chapter 4, 1987 General Session

59-2-1202. Definitions.

As used in this part:

(1) (a) "Claimant" means a homeowner or renter who:

(i) has filed a claim under this part;

(ii) is domiciled in this state for the entire calendar year for which a claim for relief is filed under this part; and

(iii) on or before the December 31 of the year for which a claim for relief is filed under this part, is:

(A) 65 years of age or older if the person was born on or before December 31, 1942;

(B) 66 years of age or older if the person was born on or after January 1, 1943, but on or before December 31, 1959; or

(C) 67 years of age or older if the person was born on or after January 1, 1960.

(b) A surviving spouse, who otherwise qualifies under this section, is an eligible claimant regardless of age.

(c) If two or more individuals of a household are able to meet the qualifications for a claimant, they may determine among them as to who the claimant shall be, but if they are unable to agree, the matter shall be referred to the county legislative body for a determination of the claimant of an owned residence and to the commission for a determination of the claimant of a rented residence.

(2) (a) "Gross rent" means rental actually paid in cash or its equivalent solely for the right of occupancy, at arm's-length, of a residence, exclusive of charges for any utilities, services, furniture, furnishings, or personal appliances furnished by the landlord as a part of the rental agreement.

(b) If a claimant occupies two or more residences in the year and does not own the residence as of the lien date, "gross rent" means the total rent paid for the residences during the one-year period for which the renter files a claim under this part.

(3) "Homeowner's credit" means a credit against a claimant's property tax liability.

(4) "Household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses.

(5) "Household income" means all income received by all persons of a household in:

(a) the calendar year preceding the calendar year in which property taxes are due; or

(b) for purposes of the renter's credit authorized by this part, the year for which a claim is filed.

(6) (a) (i) "Income" means the sum of:

(A) federal adjusted gross income as defined in Section 62, Internal Revenue Code; and

(B) all nontaxable income as defined in Subsection (6)(b).

(ii) "Income" does not include:

(A) aid, assistance, or contributions from a tax-exempt nongovernmental source;

(B) surplus foods;

(C) relief in kind supplied by a public or private agency; or

(D) relief provided under this part, Section 59-2-1108, or Section 59-2-1109.

(b) For purposes of Subsection (6)(a)(i), "nontaxable income" means amounts excluded from adjusted gross income under the Internal Revenue Code, including:

(i) capital gains;

(ii) loss carry forwards claimed during the taxable year in which a claimant files for relief under this part, Section 59-2-1108, or Section 59-2-1109;

(iii) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the residence for which the claimant files for relief under this part, Section 59-2-1108, or Section 59-2-1109;

(iv) support money received;

(v) nontaxable strike benefits;

(vi) cash public assistance or relief;

(vii) the gross amount of a pension or annuity, including benefits under the Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq., and veterans disability pensions;

(viii) payments received under the Social Security Act;

(ix) state unemployment insurance amounts;

(x) nontaxable interest received from any source;

(xi) workers' compensation;

(xii) the gross amount of "loss of time" insurance; and

(xiii) voluntary contributions to a tax-deferred retirement plan.

(7) (a) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest, and charges for service, levied on a claimant's residence in this state.

(b) For a mobile home, "property taxes accrued" includes taxes imposed on both the land upon which the home is situated and on the structure of the home itself, whether classified as real property or personal property taxes.

(c) (i) Beginning on January 1, 1999, for a claimant who owns a residence, "property taxes accrued" are the property taxes described in Subsection (7)(a) levied for the calendar year on 35% of the fair market value of the residence as reflected on the assessment roll.

(ii) The amount described in Subsection (7)(c)(i) constitutes:

(A) a tax abatement for the poor in accordance with Utah Constitution Article XIII, Section 3; and

(B) the residential exemption provided for in Section 59-2-103.

(d) (i) For purposes of this Subsection (7) property taxes accrued are levied on the lien date.

(ii) If a claimant owns a residence on the lien date, property taxes accrued mean taxes levied on the lien date, even if that claimant does not own a residence for the entire year.

(e) When a household owns and occupies two or more different residences in this state in the same calendar year, property taxes accrued shall relate only to the residence occupied on the lien date by the household as its principal place of residence.

(f) (i) If a residence is an integral part of a large unit such as a farm or a multipurpose or multidwelling building, property taxes accrued shall be the same percentage of the total property taxes accrued as the value of the residence is of the total value.

(ii) For purposes of this Subsection (7)(f), "unit" refers to the parcel of property covered by a single tax statement of which the residence is a part.

(8) (a) As used in this section, "rental assistance payment" means any payment that:

(i) is made by a:

(A) governmental entity; or

(B) (I) charitable organization; or

(II) religious organization; and

(ii) is specifically designated for the payment of rent of a claimant:

(A) for the calendar year for which the claimant seeks a renter's credit under this part; and

(B) regardless of whether the payment is made to the:

(I) claimant; or

(II) landlord; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the terms:

(i) "governmental entity";

(ii) "charitable organization"; or

(iii) "religious organization."

(9) (a) "Residence" means the dwelling, whether owned or rented, and so much of the land surrounding it, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land upon which it is built and includes a mobile home or houseboat.

(b) "Residence" does not include personal property such as furniture, furnishings, or appliances.

(c) For purposes of this Subsection (9), "owned" includes a vendee in possession under a land contract or one or more joint tenants or tenants in common.

Amended by Chapter 382, 2008 General Session

59-2-1203. Right to file claim -- Death of claimant.

(1) (a) The right to file a claim under this part is personal to the claimant.

(b) The right to file a claim does not survive the claimant's death.

(c) The right to file a claim may be exercised on behalf of a claimant by:

(i) a legal guardian of the claimant; or

(ii) an attorney-in-fact of the claimant.

(2) (a) If a claimant dies after having filed a timely claim, the amount of the claim shall be disbursed to another member of the household as determined by the commission by rule.

(b) If the claimant described in Subsection (2)(a) was the only member of the household, the claim may be paid to the executor or administrator, except that if neither an executor or administrator is appointed and qualified within two years of the filing of the claim, the amount of the claim shall escheat to the state.

(3) If the claimant is the grantor of a trust holding title to real or tangible

personal property on which a credit is claimed, the claimant may claim the portion of the credit and be treated as the owner of that portion of the property held in trust for which the claimant proves to the satisfaction of the county that:

(a) title to the portion of the trust will revest in the claimant upon the exercise of a power:

(i) by:

(A) the claimant as grantor of the trust;

(B) a nonadverse party; or

(C) both the claimant and a nonadverse party; and

(ii) regardless of whether the power is a power:

(A) to revoke;

(B) to terminate;

(C) to alter;

(D) to amend; or

(E) to appoint;

(b) the claimant is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the claimant claims the credit; and

(c) the claimant meets the requirements under this part for the credit.

(4) The amount described in Subsection 59-2-1202(7)(c)(i) is in addition to any other exemption or reduction for which a homeowner may be eligible, including the homeowner's credit provided for in Section 59-2-1206.

Amended by Chapter 221, 2001 General Session
Amended by Chapter 310, 2001 General Session

59-2-1204. Renter's and homeowner's credits authorized -- No interest allowed.

(1) If a claimant who owns a residence files an application for a homeowner's credit under Section 59-2-1206 and meets the requirements of this part, the claimant's property tax liability for the calendar year is equal to property taxes accrued.

(2) (a) A claimant meeting the requirements of this part may claim in any year either a renter's credit under Section 59-2-1209, a homeowner's credit as provided under Section 59-2-1208, or both.

(b) If a claimant who owns a residence claims a credit under Subsection (2)(a), the credit shall be applied against the claimant's property taxes accrued.

(3) Interest is not allowed on any payment made to a renter's or homeowner's credit claimant under this part.

Amended by Chapter 309, 1998 General Session

59-2-1205. Time for filing claim for renter's credit.

No claim with respect to a renter's credit may be paid or allowed unless the claim is actually filed with, and in the possession of, the commission on or before December 31 of each calendar year.

Renumbered and Amended by Chapter 4, 1987 General Session

59-2-1206. Application for homeowner's credit -- Time for filing -- Payment from General Fund.

(1) (a)A claimant applying for a homeowner's credit shall annually file an application for the credit with the county before September 1.

(b) The application under this section shall:

(i) be on forms provided by:

(A) the commission; or

(B) the county in which the applicant resides; and

(ii) include a household income statement signed by the claimant stating that:

(A) the income statement is correct; and

(B) the claimant qualifies for the credit.

(c) (i) Subject to Subsection (1)(c)(ii), a county shall apply the credit in accordance with this section and Section 59-2-1207 for the year in which the claimant applies for a homeowner's credit if the claimant meets the criteria for obtaining a homeowner's credit as provided in this part.

(ii) A homeowner's credit under this part may not exceed the claimant's property tax liability for the year in which the claimant applies for a homeowner's credit under this part.

(d) A claimant may qualify for a homeowner's credit under this part regardless of whether the claimant owes delinquent property taxes.

(2) (a) (i) The county shall compile a list of claimants and the homeowner's credits granted to the claimants for purposes of obtaining payment from the General Fund for the amount of credits granted.

(ii) A county may not obtain payment from the General Fund for the amount described in Subsection 59-2-1202(7).

(b) Upon certification by the commission the payment for the credits under this Subsection (2) shall be made to the county on or before January 1 if the list of claimants and the credits granted are received by the commission on or before November 30 of the year in which the credits under this part are granted.

(c) If the commission does not receive the list under this Subsection (2) on or before November 30, payment shall be made within 30 days of receipt of the list of claimants and credits from the county.

Amended by Chapter 221, 2001 General Session
Amended by Chapter 310, 2001 General Session

59-2-1207. Claim applied against tax liability -- One claimant per household per year.

(1) A county shall apply as provided in Subsection 59-2-1206(1)(c) the amount of a credit under this part against:

(a) a claimant's property tax liability; or

(b) the property tax liability of a spouse who was a member of the claimant's household in the year in which the claimant applies for a homeowner's credit under this

part.

(2) Only one claimant per household per year is entitled to payment under this part.

Amended by Chapter 221, 2001 General Session
Amended by Chapter 310, 2001 General Session

59-2-1208. Amount of homeowner's credit -- Cost-of-living adjustment -- Limitation -- General Fund as source of credit -- Dependent credit.

(1) (a) Subject to Subsections (2) and (4), for calendar years beginning on or after January 1, 2007, a claimant may claim a homeowner's credit that does not exceed the following amounts:

If household income is	Homeowner's credit
$0 -- $9,159	$798
$9,160 -- $12,214	$696
$12,215 -- $15,266	$597
$15,267 -- $18,319	$447
$18,320 -- $21,374	$348
$21,375 -- $24,246	$199
$24,247 -- $26,941	$98

(b) (i) For calendar years beginning on or after January 1, 2008, the commission shall increase or decrease the household income eligibility amounts and the credits under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2006.

(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(2) An individual who is claimed as a personal exemption on another individual's individual income tax return during any portion of a calendar year for which the individual seeks to claim a homeowner's credit under this section may not receive the homeowner's credit.

(3) The homeowner's credit allowed by this section, and provided for in Section 59-2-1204, shall be derived from the General Fund and appropriate transfers made to effectuate this credit.

(4) (a) Subject to Subsection (4)(b), for purposes of calculating a claimant's household income to determine the amount of the claimant's homeowner's credit under Subsection (1), for the taxable year that begins on January 1, 2009 and ends on December 31, 2009, a claimant's household income shall be decreased by $1,000 for a dependent with respect to whom a claimant is eligible to make a deduction as allowed

as a personal exemption deduction on the claimant's federal individual income tax return for the taxable year for which the household income is calculated.

(b) For purposes of Subsection (4)(a):

(i) the maximum amount a claimant's household income may be decreased is $1,000; and

(ii) "dependent" does not include the claimant or the claimant's spouse.

Amended by Chapter 302, 2009 General Session

59-2-1209. Amount of renter's credit -- Cost-of-living adjustment -- Limitation -- General Fund as source of credit -- Maximum credit -- Renter's credit may be claimed only for rent that does not constitute a rental assistance payment -- Dependent credit.

(1) (a) Subject to Subsections (2), (3), and (6), for calendar years beginning on or after January 1, 2007, a claimant may claim a renter's credit for the previous calendar year that does not exceed the following amounts:

If household income is	Percentage of rent allowed as a credit
$0 -- $9,159	9.5%
$9,160 -- $12,214	8.5%
$12,215 -- $15,266	7.0%
$15,267 -- $18,319	5.5%
$18,320 -- $21,374	4.0%
$21,375 -- $24,246	3.0%
$24,247 -- $26,941	2.5%

(b) (i) For calendar years beginning on or after January 1, 2008, the commission shall increase or decrease the household income eligibility amounts under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2006.

(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(2) A claimant may claim a renter's credit under this part only for rent that does not constitute a rental assistance payment.

(3) An individual who is claimed as a personal exemption on another individual's individual income tax return during any portion of a calendar year for which the individual seeks to claim a renter's credit under this section may not receive a renter's credit.

(4) The renter's credit allowed by this section, and provided for in Section

59-2-1204, shall be derived from the General Fund and appropriate transfers made to effectuate this credit.

(5) For calendar years beginning on or after January 1, 2007, a credit under this section may not exceed the maximum amount allowed as a homeowner's credit for each income bracket under Subsection 59-2-1208(1)(a).

(6) (a) Subject to Subsection (6)(b), for purposes of calculating a claimant's household income to determine the amount of the claimant's renter's credit under Subsection (1), for the taxable year that begins on January 1, 2009 and ends on December 31, 2009, a claimant's household income shall be decreased by $1,000 for a dependent with respect to whom a claimant is eligible to make a deduction as allowed as a personal exemption deduction on the claimant's federal individual income tax return for the taxable year for which the household income is calculated.

(b) For purposes of Subsection (6)(a):

(i) the maximum amount a claimant's household income may be decreased is $1,000; and

(ii) "dependent" does not include the claimant or the claimant's spouse.

Amended by Chapter 302, 2009 General Session

59-2-1211. Commission to provide forms and instructions -- County may prepare forms and instructions -- County legislative body authority to adopt rules or ordinances.

(1) The commission shall prescribe and make available suitable forms and instructions for:

(a) claimants; and

(b) counties.

(2) A county is not required to use the forms and instructions prescribed by the commission under Subsection (1) if the county prepares suitable forms and instructions for a claimant consistent with:

(a) this chapter; and

(b) rules adopted by the commission.

(3) The county legislative body may adopt rules or ordinances to:

(a) effectuate the property tax relief under this part; and

(b) designate one or more persons to perform the functions given the county under this part.

Amended by Chapter 221, 2001 General Session
Amended by Chapter 310, 2001 General Session

59-2-1213. Statement required of renter claimant.

Every renter claimant under this part shall supply to the commission, in support of the claim, a statement showing reasonable proof of rent paid, the name and address of the owner or managing agent of the property rented, and any changes of residence.

Renumbered and Amended by Chapter 4, 1987 General Session

59-2-1214. Redetermination of claim by commission or county.

(1) If, on the audit of any claim filed under this part, the commission or the county determines the amount has been incorrectly determined, the commission or the county shall:

(a) redetermine the claim; and

(b) notify the claimant of the redetermination and its reason for the redetermination.

(2) The redetermination provided in Subsection (1)(a) shall be final unless appealed within 30 days after the notice required by Subsection (1)(b).

Amended by Chapter 221, 2001 General Session
Amended by Chapter 310, 2001 General Session

59-2-1215. Fraudulent or negligently prepared claim -- Penalties and interest -- Procedure.

(1) (a) If the commission or the county determines that a claim is excessive and was filed with fraudulent intent:

(i) the claim shall be disallowed in full;

(ii) the credit shall be cancelled;

(iii) the amount paid or claimed shall be recovered by assessment; and

(iv) the assessment provided for in Subsection (1)(a)(iii) shall bear interest:

(A) from the date of the claim;

(B) until refunded or paid; and

(C) at the rate of 1% per month.

(b) The claimant, and any person who assists in the preparation or filing of an excessive claim or supplies information upon which an excessive claim was prepared, with fraudulent intent, is guilty of a class A misdemeanor.

(2) If the commission or the county determines that a claim is excessive and negligently prepared:

(a) 10% of the corrected claim shall be disallowed;

(b) the proper portion of any amount paid shall be similarly recovered by assessment; and

(c) the assessment provided for in Subsection (2)(b) shall bear interest at 1% per month from the date of payment until refunded or paid.

Amended by Chapter 221, 2001 General Session
Amended by Chapter 310, 2001 General Session

59-2-1216. Rented homestead -- Rent constituting property taxes.

If a homestead is rented by a person from another person under circumstances deemed by the commission to be not at arm's-length, the commission may determine rent as at arm's-length, and the determination shall be final unless appealed within 30 days.

Amended by Chapter 309, 1998 General Session

59-2-1217. Denial of relief -- Appeal.

Any person aggrieved by the denial in whole or in part of relief claimed under this part, except when the denial is based upon late filing of claim for relief, may appeal the denial to the commission by filing a petition within 30 days after the denial.

Renumbered and Amended by Chapter 4, 1987 General Session

59-2-1219. Claim disallowed if residence obtained for purpose of receiving benefits.

A claim shall be disallowed if the commission or county finds that the claimant received title to a residence primarily for the purpose of receiving benefits under this part.

Amended by Chapter 221, 2001 General Session
Amended by Chapter 310, 2001 General Session

59-2-1220. Extension of time for filing claim -- County authority to make refunds.

(1) The commission or a county may extend the time for filing a claim until December 31 of the year the claim is required to be filed, if the commission or county finds that good cause exists to extend the deadline.

(2) (a) For purposes of this Subsection (2):

(i) "Abatement" means the amount of property taxes accrued that constitutes a tax abatement for the poor in accordance with Subsection 59-2-1202(7).

(ii) "Credit" means a homeowner's credit or renter's credit authorized by this part.

(iii) "Property taxes due" means the taxes due on a claimant's property:

(A) for which an abatement or a credit is granted by a county or the commission; and

(B) for the calendar year for which the abatement or credit is granted.

(iv) "Property taxes paid" is an amount equal to the sum of:

(A) the amount of the property taxes the claimant paid for the taxable year for which the claimant is applying for the abatement or credit; and

(B) the amount of the abatement or credit the county or the commission grants.

(b) A county or the commission granting an abatement or a credit to a claimant shall refund to that claimant an amount equal to the amount by which the claimant's property taxes paid exceed the claimant's property taxes due, if that amount is $1 or more.

Amended by Chapter 221, 2001 General Session
Amended by Chapter 310, 2001 General Session

59-2-1301. Tax has effect of judgment -- Lien has effect of execution.

Every tax has the effect of a judgment against the person, and every lien created by this title has the force and effect of an execution duly levied against all personal

property of the delinquent. The judgment is not satisfied nor the lien removed until the taxes are paid or the property sold for the payment of the judgment or lien.

Renumbered and Amended by Chapter 4, 1987 General Session

59-2-1302. Assessor or treasurer's duties -- Collection of uniform fees and taxes on personal property -- Unpaid tax or unpaid uniform fee is a lien -- Delinquency interest -- Rate.

(1) After the assessor assesses taxes or uniform fees on personal property, the assessor or, if this duty has been reassigned in an ordinance under Section 17-16-5.5, the treasurer shall:

(a) list the personal property tax or uniform fee with the real property of the owner in the manner required by law and as provided under Subsection (3), if the assessor or treasurer, as the case may be, determines that the real property is sufficient to secure the payment of the personal property taxes or uniform fees;

(b) immediately collect the taxes or uniform fees due on the personal property; or

(c) on or before the day on which the tax or uniform fee on personal property is due, obtain from the taxpayer a bond that is:

(i) payable to the county in an amount equal to the amount of the tax or uniform fee due, plus 20% of the amount of the tax or uniform fee due; and

(ii) conditioned for the payment of the tax or uniform fee on or before November 30.

(2) (a) An unpaid tax as defined in Section 59-1-705, or unpaid uniform fee upon personal property listed with the real property is a lien upon the owner's real property as of noon of January 1 of each year.

(b) An unpaid tax as defined in Section 59-1-705, or unpaid uniform fee upon personal property not listed with the real property is a lien upon the owner's personal property as of noon of January 1 of each year.

(3) The assessor or treasurer, as the case may be, shall make the listing under this section:

(a) on the record of assessment of the real property; or

(b) by entering a reference showing the record of the assessment of the personal property on the record of assessment of the real property.

(4) (a) The amount of tax or uniform fee assessed upon personal property is delinquent if the tax or uniform fee is not paid on the day on which the tax notice or the combined signed statement and tax notice under Section 59-2-306 is due.

(b) Subject to Subsection (4)(c), delinquent taxes or uniform fees under Subsection (4)(a) shall bear interest from the date of delinquency until the day on which the delinquent tax or uniform fee is paid at an interest rate equal to the sum of:

(i) 6%; and

(ii) the federal funds rate target:

(A) established by the Federal Open Markets Committee; and

(B) that exists on the January 1 immediately preceding the date of delinquency.

(c) The interest rate described in Subsection (4)(b) may not be less than 7% or

more than 10%.

(5) A county assessor or treasurer shall deposit all collections of public funds from a personal property tax or personal property uniform fee no later than once every seven banking days with:

(a) the state treasurer; or

(b) a qualified depository for the credit of the county.

Amended by Chapter 163, 2011 General Session

59-2-1303. Seizure and sale -- Method and procedure.

Unless taxes or uniform fees on personal property assessed by the county assessor are paid or secured as provided under Section 59-2-1302, the assessor or, if this duty has been reassigned in an ordinance under Section 17-16-5.5, the treasurer shall collect the taxes, including accrued interest and penalties, by seizure or seizure and subsequent sale of any personal property owned by the person against whom the tax is assessed. The assessor or treasurer, as the case may be, may seize that personal property on which a delinquent property tax or uniform fee exists at any time in order to protect a county's interest in that personal property. The sale of personal property shall be made in the following manner:

(1) (a) For all personal property, except manufactured homes and mobile homes as provided in Subsection (1)(b), the sale shall be made:

(i) at public auction;

(ii) of a sufficient amount of property to pay the taxes, or uniform fees and interest, penalties, and costs;

(iii) when practicable, in the city, town, or precinct where the property was seized; and

(iv) after one week's notice of the time and place of the sale, given by:

(A) (I) publication in a newspaper having general circulation in the county; and

(II) publication in accordance with Section 45-1-101; and

(B) posting in three public places in the county.

(b) For manufactured homes and mobile homes that are used as a residence and that are listed on the personal property roll of the county, the sale shall be made:

(i) at public auction;

(ii) when practicable, in the city, town, or precinct where the property was seized;

(iii) no sooner than one year after the taxes on the property became delinquent as determined in Section 59-2-1302;

(iv) after publication of the date, time, and place of sale:

(A) in a newspaper having general circulation in the county, once in each of two successive weeks immediately preceding the date of the sale; and

(B) in accordance with Section 45-1-101 for two weeks immediately preceding the date of the sale; and

(v) after notification, sent by certified mail at least 10 days prior to the first date of publication under Subsection (1)(b)(iv), to the owner of the manufactured home or mobile home, all lien holders of record, and any other person known by the assessor to

have an interest in the manufactured home or mobile home, of the date, time, and place of the sale.

(2) For seizing or selling personal property the assessor or treasurer, as the case may be, may charge in each case the actual and necessary expenses for travel and seizing, handling, keeping, selling, or caring for that property.

(3) Upon payment of the price bid for any personal property sold under this section, the delivery of the property, with a bill of sale, vests title in the purchaser.

(4) All sale proceeds in excess of taxes, or uniform fees and interest, penalties, and costs shall be returned to the owner of the personal property, and until claimed shall be deposited in the county treasury and made subject to the order of the owner, the owner's heirs, or assigns.

(5) The unsold portion of any property may be left at the place of sale at the risk of the owner.

(6) If there is no acceptable purchaser of the property, the property shall be declared the property of the county. The county executive may sell or rent any property held in the name of the county at any time after the sale upon terms determined by the county legislative body.

Amended by Chapter 388, 2009 General Session

59-2-1304. Rate of previous year governs -- Proration among taxing units -- Effective date of boundary changes for assessment.

(1) (a) The amount of taxes to be collected in the current year on personal property assessed by the county assessor shall be based on the tax rates levied by all taxing entities for the previous year, and the tax so billed shall be the full tax on the property for the current year.

(b) The money collected in accordance with Subsection (1)(a) shall be paid:

(i) into the county treasury; and

(ii) by the treasurer to the various taxing entities pro rata in accordance with the tax rates levied and approved for the current year, including new entities levying for the first time.

(2) An assessment shall be collected in accordance with the effective date and boundary adjustment provisions in Subsection 17-2-209(4).

Amended by Chapter 381, 2010 General Session

59-2-1305. Entries of payments made -- Payments to county treasurer.

(1) The assessor or, if this duty has been reassigned in an ordinance under Section 17-16-5.5, the treasurer shall note on the assessment roll, opposite the names of each person against whom taxes have been assessed, the amount of the taxes paid.

(2) (a) The assessor or treasurer, as the case may be, shall require all checks to be made payable to the office of the county assessor or treasurer, respectively.

(b) If the assessor or treasurer receives checks made payable to a payee other than the office of the county assessor or treasurer, respectively, the assessor or treasurer, as the case may be, shall immediately endorse the check with a restrictive

endorsement that makes the check payable to the office of the county treasurer.

(3) The assessor shall deposit all money the assessor collects into an account controlled by the county treasurer.

Amended by Chapter 207, 1999 General Session

59-2-1306. Collection after taxpayer moves from county -- Evidence of tax due -- Costs of collection.

(1) If any person moves from one county to another after being assessed on personal property, the county in which the person was assessed may sue for and collect the tax in the name of the county where the assessment was made.

(2) At the trial, a certified copy of the assessment from the county where the assessment was made, with a signed statement attached that the tax has not been paid, describing it as on the assessment book or delinquent list, is prima facie evidence that the tax and the interest are due, and entitles the county to judgment, unless the defendant proves that the tax was paid.

(3) The county treasurer shall be credited and the county auditor shall allow the expenses of collecting the tax and permit a deduction from the amount collected, not to exceed 1/3 of the amount of the tax collected.

Amended by Chapter 86, 2000 General Session

59-2-1307. Entries of tax payments made on rail cars or state-assessed commercial vehicles.

(1) The commission, upon apportionment of the property of rail car companies and state-assessed commercial vehicles, shall proceed to collect the taxes from the owners of the property, and shall send to each owner notice of the amount of the tax assessed against it, when and where payable, when delinquent, and the penalty provided by law.

(a) The commission shall remit taxes collected from owners of state-assessed commercial vehicles to each county treasurer at least quarterly.

(b) On or before the first Monday in January following in each year, the commission shall remit to the state treasurer all other taxes collected and due the state, and to each county the taxes collected and due to it and to the various taxing entities included in the county. The state treasurer and the treasurers of the several taxing entities shall make proper entries in their records of the receipt of the taxes.

(2) All railroads doing business in this state shall furnish the commission with any information required by the commission, within the knowledge of the railroad companies, which will aid the commission in the collection of taxes from rail car companies.

Amended by Chapter 86, 2000 General Session

59-2-1308. Property assessed by commission -- Collection procedures -- Exceptions.

(1) Property taxes assessed by the commission shall be collected, billed, and paid in the manner provided for the collection, billing, and enforcement of other general property taxes under this chapter, except:

(a) the rolling stock of rail car companies; and

(b) state-assessed commercial vehicles.

(2) (a) A county treasurer may require a taxpayer, other than a taxpayer described in Subsection (1)(a) or (b), to pay an ad valorem tax liability immediately if:

(i) the taxpayer's property taxes are assessed by the commission under Section 59-2-201; and

(ii) the taxpayer gives any indication of:

(A) departing from the state;

(B) removing the taxpayer's property from the state; or

(C) doing any other act which may prejudice or hinder the collection process for any assessment period.

(b) If a tax is not paid as provided in this chapter, the county treasurer shall collect the tax:

(i) for personal property and uniform fees, in the same manner as is provided for the collection of delinquent taxes or uniform fees under Sections 59-2-1302 and 59-2-1303; or

(ii) for all other property, including personal property and uniform fees listed with real property under Section 59-2-1302, in the same manner as is provided for the collection of delinquent taxes under Section 59-2-1331.

(c) The provisions of Sections 59-2-1302 and 59-2-1303 apply to the assessment by the commission or the county assessor of taxpayers other than a taxpayer described in Subsection (1)(a) or (b).

Amended by Chapter 360, 1997 General Session
Amended by Chapter 379, 1997 General Session

59-2-1308.5. Equal payment agreements.

(1) (a) The commission may enter into an agreement with a commercial or industrial taxpayer to provide for equal, or approximately equal, property tax payments over a reasonable period of years, not to exceed 20 years, if:

(i) the payment schedule is based on an accepted valuation methodology that reasonably estimates the property's anticipated fair market value over the period of the proposed equal payments;

(ii) the agreement includes a provision making the initial equal payment schedule subject to an annual adjustment, as necessary, to account for differences between the property's fair market value as of the annual lien date and the property's fair market value that formed the basis of the initial equal payment schedule;

(iii) the commission, the taxpayer, and each affected taxing entity approve the agreement; and

(iv) the total amount the taxpayer pays under the agreement is no less than the amount the taxpayer would have paid in the absence of the agreement.

(b) A taxing entity may not approve an agreement under this section on behalf

of another taxing entity.

(2) (a) Subject to Subsection (2)(b), a tax lien under this chapter against the taxpayer's property is not affected by a payment pursuant to an agreement under this section to the extent of the difference between the amount the taxpayer would have been required to pay in the absence of the agreement and the amount of the payment under the agreement.

(b) For purposes of enforcing a tax lien under this chapter, a taxpayer's failure to pay the full amount of taxes that the taxpayer would have been required to pay in the absence of an agreement under this section does not constitute a failure to pay the full amount of taxes owing:

(i) if the taxpayer pays the full amount of the payment owing under the agreement; and

(ii) unless the taxpayer:

(A) files for bankruptcy;

(B) transfers ownership of the property that is the subject of the property taxes; or

(C) has a change in ownership and the new owner does not assume all responsibility and liability under the agreement.

(3) (a) The commission may revise, accelerate, or cancel an equal payment agreement under this section to the same extent and for the same reasons that the commission may revise, accelerate, or cancel an installment agreement under Section 59-1-1004.

(b) The commission shall give the taxpayer reasonable notice of its intent to revise or cancel an equal payment agreement under this section.

(4) The commission shall promulgate rules to ensure that tax revenue derived from payments pursuant to an agreement under this section do not affect the calculation of the certified tax rate under Section 59-2-924.

(5) (a) The commission shall annually provide to the Revenue and Taxation Interim Committee an assessment of the effects of equal payment agreements under this section.

(b) The Revenue and Taxation Interim Committee shall annually review and assess the effects of equal payment agreements under this section.

Enacted by Chapter 325, 2011 General Session

59-2-1309. Publication of delinquency -- Seizure and sale -- Redemption -- Distribution of proceeds.

(1) (a) On or before December 15 of each year, the commission shall publish a list of the delinquent rail car companies and state-assessed commercial vehicles:

(i) in a newspaper having general circulation in the state; and

(ii) as required in Section 45-1-101.

(b) The list shall contain the names of the owners, when known, and a general description of the property assessed as to which the taxes are delinquent, and the amount of the delinquent taxes.

(c) The commission shall publish with the list a notice that unless the delinquent

taxes, together with the penalty, are paid before December 21, the property of the delinquent or so much of it as may be necessary to pay the amount of the taxes, penalty, and interest at the rate prescribed in Section 59-1-402 from December 31 to the date of sale, shall be seized and sold for taxes, interest, and costs, the sale to be made at any time and place at the discretion of the commission.

(d) The provisions of law governing the seizure and sale by county treasurers of personal property for delinquent taxes shall apply to sales made by the commission under this section, except that notice of the time and place of the sale shall be given by publication:

(i) in a newspaper of general circulation in the state; and

(ii) as required in Section 45-1-101.

(2) Property seized by the commission pursuant to this section may be redeemed, at any time prior to the sale, by payment of the full amount of taxes due from the delinquent together with all penalties, interest, and the costs then accrued.

(3) All sums collected by the commission upon the sale or redemption of property pursuant to this section shall be immediately distributed as follows:

(a) all interest, penalties, and costs to the appropriate county treasurer; and

(b) any excess over the taxes, penalties, interest, and cost shall be deposited with the state treasurer subject to the order of the owner of the property sold, or the owner's heirs or assigns.

Amended by Chapter 388, 2009 General Session

59-2-1310. Collection by seizure and sale -- Procedure -- Costs.

(1) The treasurer shall collect the taxes delinquent on personal property assessed by the commission as determined by the assessor, except when sufficient real estate is liable for the tax, by seizure and sale of any personal property owned by the delinquent taxpayer.

(2) The sale shall be at public auction, and of a sufficient amount of property to pay the taxes and costs, and when practicable shall be made in the city, town, or precinct where seized.

(3) The sale shall be made after one week's notice of the time and place of the sale, given by:

(a) (i) publication in a newspaper having general circulation in the county; and

(ii) publication in accordance with Section 45-1-101; and

(b) posting in three public places in the county.

(4) For seizing or selling personal property the treasurer may charge in each case the actual and necessary expenses for travel and seizing, handling, keeping, selling, or caring for property so seized or sold.

(5) On payment of the price bid for any personal property sold, its delivery, with a bill of sale, vests title in the purchaser.

(6) All excess of the proceeds of any sale over the taxes and costs shall be returned to the owner of the property sold, and until claimed shall be deposited in the county treasury and disposed of under Title 67, Chapter 4a, Unclaimed Property Act, subject to the order of the owner, or the owner's heirs or assigns.

(7) If there is no acceptable purchaser of the property, the property shall be declared the property of the county. The county executive may sell or rent any property held in the name of the county at any time after the sale upon terms determined by the county legislative body.

(8) The unsold portion of any property may be left at the place of sale at the risk of the owner.

Amended by Chapter 388, 2009 General Session

59-2-1311. Treasurer to advise commission of taxes unpaid on its assessments -- Notice to property owners.

Each county treasurer shall, during the first week in February of each year, report to the commission the name of each person who has failed to pay the taxes assessed and levied against the person during the preceding year upon property assessed by the commission. The commission shall note that the prior year's taxes are delinquent on the next tax notice sent to property owners under Section 59-2-1307.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1312. Examination of books of county officers by state officers.

The state auditor, any member of the commission, or any person designated by the commission may examine the books of any county officer charged with the collection and receipt of state taxes.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1313. Attorney general to prosecute delinquent officers.

If, on examination, it is found that any officer has been guilty of defrauding the state of revenue or has neglected or refused to perform any duty relating to revenue, the attorney general shall prosecute the delinquent officer.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1314. Informalities and time prescribed for action -- Effect on validity of tax.

No assessment or act relating to assessment or collection of taxes is illegal on account of informality or because the assessment or act was not completed within the time required by law.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1315. Disposition of fines and forfeitures.

The fines and forfeitures incurred by violation of any of the provisions of this chapter shall be paid into the treasury for the use of the county where the property is located.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1316. Annual settlements between county assessor, county treasurer, and county auditor.

Every county assessor and county treasurer shall annually, on the first Monday in January, make a settlement with the county auditor of all transactions connected with the revenue for the previous year, and every county treasurer, on the expiration of the treasurer's term of office, shall make the settlement.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) if applicable, the amount of an assessment assessed in accordance with Section 11-42-401;

(viii) the date the taxes are due;

(ix) the street address at which the taxes may be paid;

(x) the date on which the taxes are delinquent;

(xi) the penalty imposed on delinquent taxes;

(xii) other information specifically authorized to be included on the notice under this chapter; and

(xiii) other property tax information approved by the commission.

(2) For any property for which property taxes are delinquent, the notice described in Subsection (1) shall state, "Prior taxes are delinquent on this parcel."

(3) Except as provided in Subsection (4), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(4) (a) Subject to the other provisions of this Subsection (4), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (3), until a taxpayer makes a new election in accordance with this Subsection (4), if:

(i) the taxpayer revokes an election in accordance with Subsection (4)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (4) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(5) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(6) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

Amended by Chapter 279, 2014 General Session

59-2-1318. Date of payment of property tax -- Notation on assessment roll.

The county treasurer shall mark the date of the payment of any tax on the assessment roll opposite the property identification number.

Amended by Chapter 143, 1997 General Session

59-2-1319. Receipts for payments -- Payment by warrant -- Cash payments required -- Exceptions.

(1) If a person pays taxes in person at the county treasurer's office, the county treasurer shall, upon request, give a receipt to the person paying the taxes, specifying the amount of the taxes due, the property identification number, and the aggregate amount of taxes paid.

(2) County warrants shall be taken in payment of county taxes, city warrants in payment of city taxes, and school district warrants in payment of school district taxes.

(3) All taxes shall be paid in cash, unless the county treasurer adopts rules otherwise.

Amended by Chapter 143, 1997 General Session

59-2-1320. Settlements with county legislative bodies.

On the first Monday of March and June, and the second Monday of September and December, the county treasurer shall settle with the county legislative body for all money collected by the treasurer, and on those days shall deliver to and file in the office of the county auditor a statement under oath showing:

(1) an account of all transactions and receipts since the last settlement; and
(2) that all money collected is in the county treasury.

Amended by Chapter 227, 1993 General Session

59-2-1321. Erroneous or illegal assessments -- Deductions and refunds.

The county legislative body, upon sufficient evidence being produced that property has been either erroneously or illegally assessed, may order the county treasurer to allow the taxes on that part of the property erroneously or illegally assessed to be deducted before payment of taxes. Any taxes, interest, and costs paid more than once, or erroneously or illegally collected, may, by order of the county legislative body, be refunded by the county treasurer, and the portion of taxes, interest, and costs paid to the state or any taxing entity shall be refunded to the county, and the appropriate officer shall draw a warrant for that amount in favor of the county.

Amended by Chapter 227, 1993 General Session

59-2-1322. Property assessed more than once.

If the county treasurer determines that any property has been assessed more than once for the same year, the treasurer shall collect only the tax justly due and report the facts, under affidavit, to the county auditor.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1323. Undivided interests in real estate -- Interest of delinquent co-owner only to be sold.

The county treasurer shall issue a receipt showing the interest on which taxes are paid to any person paying taxes on an undivided interest in real estate. If any portion of the taxes on the real estate remains unpaid, it is the duty of the treasurer to sell only the undivided interest in the real estate which belongs to the co-owners who have not paid their portion of the tax.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1324. Taxes to be paid before distribution of estate of a deceased person.

The district court shall require every administrator or executor to pay out of the funds of the estate all taxes due from the estate. No order or decree for the distribution of any property of any decedent among the heirs or devisees may be made until all taxes against the estate are paid.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1325. Nature and extent of lien -- Time of attachment -- Effective date of boundary changes for assessment.

(1) (a) A tax upon real property is a lien against the property assessed.

(b) A tax due upon improvements upon real property assessed to a person other than the owner of the real property is a lien upon the property and improvements.

(c) A lien described in Subsection (1)(a) or (b) shall attach on January 1 of each year.

(2) An assessment shall be collected in accordance with the effective date and boundary adjustment provisions in Subsection 17-2-209(4).

Amended by Chapter 381, 2010 General Session

59-2-1326. Illegal tax -- Injunction to restrain collection.

No injunction may be granted by any court to restrain the collection of any tax or any part of the tax, nor to restrain the sale of any property for the nonpayment of the tax, unless the tax, or some part of the tax sought to be enjoined: (1) is not authorized by law, or (2) is on property which is exempt from taxation. If the payment of a part of a tax is sought to be enjoined, the other part shall be paid or tendered before any action may be commenced.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1327. Payment of tax under protest -- Circumstances where authorized -- Action to recover tax paid.

Where a tax is demanded or enforced by a taxing entity, and the person whose property is taxed claims the tax is unlawful, that person may pay the tax under protest to the county treasurer. The person may then bring an action in the district court against the officer or taxing entity to recover the tax or any portion of the tax paid under protest.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1328. Judgment or order against state or taxing entity -- Payment to taxpayer -- County recovery of portion of payment to taxpayer from the state or a taxing entity other than the county.

(1) If a taxpayer obtains a final and unappealable judgment or order in accordance with Section 59-2-1330 ordering a reduction in the amount of any tax levied against any property for which the taxpayer paid a tax or any portion of a tax under this chapter for a calendar year, the state or the taxing entity against which the taxpayer obtained the final and unappealable judgment or order shall:

(a) audit and allow the final and unappealable judgment or order;

(b) cause a warrant to be drawn for the amount recovered by the final and

unappealable judgment or order; and

(c) pay the taxpayer as required by Section 59-2-1330.

(2) At the request of a county, the state or a taxing entity shall cause a warrant to be drawn upon the treasurer of the state or the taxing entity in favor of the county:

(a) if:

(i) the final and unappealable judgment or order described in Subsection (1) is obtained against a county; and

(ii) any portion of the taxes included in the final and unappealable judgment or order described in Subsection (1):

(A) is levied by the state or a taxing entity other than the county; and

(B) has been paid over to the state or the taxing entity described in Subsection (2)(a)(ii)(A) by the county; and

(b) for the state's or the taxing entity's proportionate share of a payment to a taxpayer required by Section 59-2-1330.

(3) For purposes of Subsection (2), the state's or a taxing entity's proportionate share of a payment to a taxpayer required by Section 59-2-1330 is an amount equal to the product of:

(a) the percentage by which the amount of any tax levied against any property for which the taxpayer paid a tax under this chapter for a calendar year was reduced in accordance with the final and unappealable judgment or order described in Subsection (1); and

(b) the total amount of the taxes for the property described in Subsection (1) paid over to the state or the taxing entity by the county for the calendar year described in Subsection (3)(a).

Amended by Chapter 196, 2002 General Session
Amended by Chapter 240, 2002 General Session

59-2-1329. Right to injunction limited.

This remedy supersedes the remedy of injunction and all other remedies which might be invoked to prevent the collection of taxes alleged to be unlawfully levied or demanded, unless the court finds that the remedy provided is inadequate, in which case the injunctive proceedings under Section 59-2-1326 apply.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1330. Payment of property taxes -- Payments to taxpayer by state or taxing entity -- Refund of penalties paid by taxpayer -- Refund of interest paid by taxpayer -- Payment of interest to taxpayer -- Judgment levy -- Objections to assessments by the commission -- Time periods for making payments to taxpayer.

(1) Unless otherwise specifically provided by statute, property taxes shall be paid directly to the county assessor or the county treasurer:

(a) on the date that the property taxes are due; and

(b) as provided in this chapter.

(2) A taxpayer shall receive payment as provided in this section if a reduction in the amount of any tax levied against any property for which the taxpayer paid a tax or any portion of a tax under this chapter for a calendar year is required by a final and unappealable judgment or order described in Subsection (3) issued by:

(a) a county board of equalization;

(b) the commission; or

(c) a court of competent jurisdiction.

(3) (a) For purposes of Subsection (2), the state or any taxing entity that has received property taxes or any portion of property taxes from a taxpayer described in Subsection (2) shall pay the taxpayer if:

(i) the taxes the taxpayer paid in accordance with Subsection (2) are collected by an authorized officer of the:

(A) county; or

(B) state; and

(ii) the taxpayer obtains a final and unappealable judgment or order:

(A) from:

(I) a county board of equalization;

(II) the commission; or

(III) a court of competent jurisdiction;

(B) against:

(I) the taxing entity or an authorized officer of the taxing entity; or

(II) the state or an authorized officer of the state; and

(C) ordering a reduction in the amount of any tax levied against any property for which a taxpayer paid a tax or any portion of a tax under this chapter for the calendar year.

(b) The amount that the state or a taxing entity shall pay a taxpayer shall be determined in accordance with Subsections (4) through (7).

(4) For purposes of Subsections (2) and (3), the amount the state shall pay to a taxpayer is equal to the sum of:

(a) if the difference described in this Subsection (4)(a) is greater than $0, the difference between:

(i) the tax the taxpayer paid to the state in accordance with Subsection (2); and

(ii) the amount of the taxpayer's tax liability to the state after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(b) if the difference described in this Subsection (4)(b) is greater than $0, the difference between:

(i) any penalties the taxpayer paid to the state in accordance with Section 59-2-1331; and

(ii) the amount of penalties the taxpayer is liable to pay to the state in accordance with Section 59-2-1331 after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(c) as provided in Subsection (6)(a), interest the taxpayer paid in accordance with Section 59-2-1331 on the amounts described in Subsections (4)(a) and (4)(b); and

(d) as provided in Subsection (6)(b), interest on the sum of the amounts described in:

(i) Subsection (4)(a);

(ii) Subsection (4)(b); and

(iii) Subsection (4)(c).

(5) For purposes of Subsections (2) and (3), the amount a taxing entity shall pay to a taxpayer is equal to the sum of:

(a) if the difference described in this Subsection (5)(a) is greater than $0, the difference between:

(i) the tax the taxpayer paid to the taxing entity in accordance with Subsection (2); and

(ii) the amount of the taxpayer's tax liability to the taxing entity after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(b) if the difference described in this Subsection (5)(b) is greater than $0, the difference between:

(i) any penalties the taxpayer paid to the taxing entity in accordance with Section 59-2-1331; and

(ii) the amount of penalties the taxpayer is liable to pay to the taxing entity in accordance with Section 59-2-1331 after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(c) as provided in Subsection (6)(a), interest the taxpayer paid in accordance with Section 59-2-1331 on the amounts described in Subsections (5)(a) and (5)(b); and

(d) as provided in Subsection (6)(b), interest on the sum of the amounts described in:

(i) Subsection (5)(a);

(ii) Subsection (5)(b); and

(iii) Subsection (5)(c).

(6) Except as provided in Subsection (7):

(a) interest shall be refunded to a taxpayer on the amount described in Subsection (4)(c) or (5)(c) in an amount equal to the amount of interest the taxpayer paid in accordance with Section 59-2-1331; and

(b) interest shall be paid to a taxpayer on the amount described in Subsection (4)(d) or (5)(d):

(i) beginning on the later of:

(A) the day on which the taxpayer paid the tax in accordance with Subsection (2); or

(B) January 1 of the calendar year immediately following the calendar year for which the tax was due;

(ii) ending on the day on which the state or a taxing entity pays to the taxpayer the amount required by Subsection (4) or (5); and

(iii) at the interest rate earned by the state treasurer on public funds transferred to the state treasurer in accordance with Section 51-7-5.

(7) Notwithstanding Subsection (6):

(a) the state may not pay or refund interest to a taxpayer under Subsection (6) on any tax the taxpayer paid in accordance with Subsection (2) that exceeds the amount of tax levied by the state for that calendar year as stated on the notice required by Section 59-2-1317; and

(b) a taxing entity may not pay or refund interest to a taxpayer under Subsection (6) on any tax the taxpayer paid in accordance with Subsection (2) that exceeds the amount of tax levied by the taxing entity for that calendar year as stated on the notice required by Section 59-2-1317.

(8) (a) Each taxing entity may levy a tax to pay its share of the final and unappealable judgment or order described in Subsection (3) if:

(i) the final and unappealable judgment or order is issued no later than 15 days prior to the date the levy is set under Subsection 59-2-924(3)(a);

(ii) the amount of the judgment levy is included on the notice under Section 59-2-919.1; and

(iii) the final and unappealable judgment or order is an eligible judgment, as defined in Section 59-2-102.

(b) The levy under Subsection (8)(a) is in addition to, and exempt from, the maximum levy established for the taxing entity.

(9) (a) A taxpayer that objects to the assessment of property assessed by the commission shall pay, on or before the date of delinquency established under Subsection 59-2-1331(1) or Section 59-2-1332, the full amount of taxes stated on the notice required by Section 59-2-1317 if:

(i) the taxpayer has applied to the commission for a hearing in accordance with Section 59-2-1007 on the objection to the assessment; and

(ii) the commission has not issued a written decision on the objection to the assessment in accordance with Section 59-2-1007.

(b) A taxpayer that pays the full amount of taxes due under Subsection (9)(a) is not required to pay penalties or interest on an assessment described in Subsection (9)(a) unless:

(i) a final and unappealable judgment or order establishing that the property described in Subsection (9)(a) has a value greater than the value stated on the notice required by Section 59-2-1317 is issued by:

(A) the commission; or

(B) a court of competent jurisdiction; and

(ii) the taxpayer fails to pay the additional tax liability resulting from the final and unappealable judgment or order described in Subsection (9)(b)(i) within a 45-day period after the county bills the taxpayer for the additional tax liability.

(10) (a) Except as provided in Subsection (10)(b), a payment that is required by this section shall be paid to a taxpayer:

(i) within 60 days after the day on which the final and unappealable judgment or order is issued in accordance with Subsection (3); or

(ii) if a judgment levy is imposed in accordance with Subsection (8):

(A) if the payment to the taxpayer required by this section is $5,000 or more, no later than December 31 of the year in which the judgment levy is imposed; and

(B) if the payment to the taxpayer required by this section is less than $5,000,

within 60 days after the date the final and unappealable judgment or order is issued in accordance with Subsection (3).

(b) Notwithstanding Subsection (10)(a), a taxpayer may enter into an agreement:

(i) that establishes a time period other than a time period described in Subsection (10)(a) for making a payment to the taxpayer that is required by this section; and

(ii) with:

(A) an authorized officer of a taxing entity for a tax imposed by a taxing entity; or

(B) an authorized officer of the state for a tax imposed by the state.

Amended by Chapter 61, 2008 General Session
Amended by Chapter 231, 2008 General Session
Amended by Chapter 236, 2008 General Session
Amended by Chapter 301, 2008 General Session

59-2-1331. Date tax is delinquent -- Penalty -- Interest -- Payments -- Refund of prepayment.

(1) (a) Except as provided in Subsection (1)(b), all taxes, unless otherwise specifically provided for under Section 59-2-1332, or other law, unpaid or postmarked after November 30 of each year following the date of levy, are delinquent, and the county treasurer shall close the treasurer's office for the posting of current year tax payments until a delinquent list has been prepared.

(b) Notwithstanding Subsection (1)(a), if November 30 falls on a Saturday, Sunday, or holiday:

(i) the date of the next following day that is not a Saturday, Sunday, or holiday shall be substituted in Subsection (1)(a) and Subsection 59-2-1332(1) for November 30; and

(ii) the date of the day occurring 30 days after the date under Subsection (1)(b)(i) shall be substituted in Subsection 59-2-1332(1) for December 30.

(2) (a) Except as provided in Subsection (2)(e), for each parcel, all delinquent taxes on each separately assessed parcel are subject to a penalty of 2.5% of the amount of the delinquent taxes or $10, whichever is greater.

(b) Unless the delinquent taxes, together with the penalty, are paid on or before January 31, the amount of taxes and penalty shall bear interest on a per annum basis from the January 1 immediately following the delinquency date.

(c) Except as provided in Subsection (2)(d), for purposes of Subsection (2)(b), the interest rate is equal to the sum of:

(i) 6%; and

(ii) the federal funds rate target:

(A) established by the Federal Open Markets Committee; and

(B) that exists on the January 1 immediately following the date of delinquency.

(d) The interest rate described in Subsection (2)(c) may not be:

(i) less than 7%; or

(ii) more than 10%.

(e) The penalty described in Subsection (2)(a) is 1% of the amount of the delinquent taxes or $10, whichever is greater, if all delinquent taxes and the penalty are paid on or before the January 31 immediately following the delinquency date.

(3) If the delinquency exceeds one year, the amount of taxes and penalties for that year and all succeeding years shall bear interest until settled in full through redemption or tax sale. The interest rate to be applied shall be calculated for each year as established under Subsection (2) and shall apply on each individual year's delinquency until paid.

(4) The county treasurer may accept and credit on account against taxes becoming due during the current year, at any time before or after the tax rates are adopted, but not subsequent to the date of delinquency, either:

(a) payments in amounts of not less than $10; or

(b) the full amount of the unpaid tax.

(5) (a) At any time before the county treasurer provides the tax notice described in Section 59-2-1317, the county treasurer may refund amounts accepted and credited on account against taxes becoming due during the current year.

(b) Upon recommendation by the county treasurer, the county legislative body shall adopt rules or ordinances to implement the provisions of this Subsection (5).

Amended by Chapter 279, 2014 General Session

59-2-1332. Extension of date of delinquency.

(1) (a) The county legislative body may, upon a petition of not less than 100 taxpayers or upon its own motion for good cause, by proclamation, extend the date when taxes become delinquent from November 30 to noon on December 30.

(b) If the county legislative body so extends this date, the county legislative body shall publish a notice of the proclamation covering this extension:

(i) in a newspaper of general circulation in the county in at least two issues before November 1 of the year in which the taxes are to be paid; and

(ii) in accordance with Section 45-1-101 for two weeks before November 1.

(2) In all cases where the county legislative body extends the date when taxes become delinquent, the date for the selling of property to the county for delinquent taxes shall be extended 30 days from the dates provided by law.

Amended by Chapter 388, 2009 General Session

59-2-1332.5. Mailing notice of delinquency or publication of delinquent list -- Contents -- Notice -- Definitions.

(1) The county treasurer shall provide notice of delinquency in the payment of property taxes:

(a) except as provided in Subsection (4), on or before December 31 of each calendar year; and

(b) in a manner described in Subsection (2).

(2) A notice of delinquency in the payment of property taxes shall be provided by:

(a) (i) mailing a written notice, postage prepaid:
(A) to each delinquent taxpayer; and
(B) that includes the information required by Subsection (3)(a); and
(ii) making available to the public a list of delinquencies in the payment of property taxes:
(A) by electronic means; and
(B) that includes the information required by Subsection (3)(b); or
(b) publishing a list of delinquencies in the payment of property taxes:
(i) in one issue of a newspaper having general circulation in the county;
(ii) that lists each delinquency in alphabetical order by:
(A) the last name of the delinquent taxpayer; or
(B) if the delinquent taxpayer is a business entity, the name of the business entity; and
(iii) that includes the information required by Subsection (3)(b).
(3) (a) A written notice of delinquency in the payment of property taxes described in Subsection (2)(a)(i) shall include:
(i) a statement that delinquent taxes are due;
(ii) the amount of delinquent taxes due, not including any penalties imposed in accordance with this chapter;
(iii) (A) the name of the delinquent taxpayer; or
(B) if the delinquent taxpayer is a business entity, the name of the business entity;
(iv) (A) a description of the delinquent property; or
(B) the property identification number of the delinquent property;
(v) a statement that a penalty shall be imposed in accordance with this chapter; and
(vi) a statement that interest accrues as of January 1 following the date of the delinquency unless on or before January 31 the following are paid:
(A) the delinquent taxes; and
(B) the penalty.
(b) The list of delinquencies described in Subsection (2)(a)(ii) or (2)(b) shall include:
(i) the amount of delinquent taxes due, not including any penalties imposed in accordance with this chapter;
(ii) (A) the name of the delinquent taxpayer; or
(B) if the delinquent taxpayer is a business entity, the name of the business entity;
(iii) (A) a description of the delinquent property; or
(B) the property identification number of the delinquent property;
(iv) a statement that a penalty shall be imposed in accordance with this chapter; and
(v) a statement that interest accrues as of January 1 following the date of the delinquency unless on or before January 31 the following are paid:
(A) the delinquent taxes; and
(B) the penalty.

(4) Notwithstanding Subsection (1)(a), if the county legislative body extends the date when taxes become delinquent under Subsection 59-2-1332(1), the notice of delinquency in the payment of property taxes shall be provided on or before January 10.

(5) (a) In addition to the notice of delinquency in the payment of property taxes required by Subsection (1), a county treasurer may in accordance with this Subsection (5) mail a notice that property taxes are delinquent:

(i) to:

(A) a delinquent taxpayer;

(B) an owner of record of the delinquent property;

(C) any other interested party that requests notice; or

(D) a combination of Subsections (5)(a)(i)(A) through (C); and

(ii) at any time that the county treasurer considers appropriate.

(b) A notice mailed in accordance with this Subsection (5):

(i) shall include the information required by Subsection (3)(a); and

(ii) may include any information that the county treasurer finds is useful to the owner of record of the delinquent property in determining:

(A) the status of taxes owed on the delinquent property;

(B) any penalty that is owed on the delinquent property;

(C) any interest charged under Section 59-2-1331 on the delinquent property; or

(D) any related matters concerning the delinquent property.

(6) As used in this section, "business entity" means:

(a) an association;

(b) a corporation;

(c) a limited liability company;

(d) a partnership;

(e) a trust; or

(f) a business entity similar to Subsections (6)(a) through (e).

Amended by Chapter 422, 2011 General Session

59-2-1333. Errors or omissions -- In assessment book -- Authority to correct.

An omission, error, defect in form in the assessment roll, or clerical error, when it can be ascertained what was intended, may, with the consent of the county legislative body, be supplied or corrected by the assessor at any time prior to the sale for delinquent taxes and after the original assessment was made.

Amended by Chapter 143, 1997 General Session

59-2-1334. Omission, error, or defect in delinquent lists -- Republication.

(1) If an omission, error, or defect is in a delinquent list or any publication, the list or publication may be republished as amended, or notice of the correction may be given in a supplementary publication.

(2) Any republication shall be made in the same manner as the original

publication, for not less than one week.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1335. Abbreviations permitted in proceedings.

(1) In all proceedings relating to assessment, levy, or collection of taxes or the subjection of any property to a charge for taxes of any nature, or the advertisement and sale of any property for taxes, the following initial letters, abbreviations, symbols, and figures may be used. The meaning of the initial letters, abbreviations, symbols, and figures is shown by the word or words placed opposite the initial letters, abbreviations, symbols, and figures:

a., ac. ..... acre, acres
add. ..... addition
ave. ..... avenue
beg. ..... beginning
blk. ..... block
bet. ..... between
bdy., bdrs. ..... boundary, boundaries
ch., chs. ..... chain, chains
com. ..... commencing
cont. ..... containing
deg. or degree symbol ..... degree, degrees
dist. ..... distance
E. ..... east
E'ly. ..... easterly
ft. ..... foot, feet
frac. ..... fractional
in., ins. ..... inch, inches
lk., lks. ..... link, links

lt., lts. ..... lot, lots
m., min., or ' ..... minute, minutes
m. or l. ..... more or less
N. ..... north
NE. ..... northeast
NE'ly. ..... northeasterly
N'ly. ..... northerly
NW. ..... northwest
NW'ly. ..... northwesterly
pt. ..... point
1/4 sec. ..... quarter section
r., rs. ..... range, ranges
rd., rds. ..... rod, rods
R. of W. ..... right-of-way
s. or " ..... second, seconds
S. ..... south
SE. ..... southeast
SE'ly. ..... southeasterly
S'ly. ..... southerly
st. ..... street
sub. ..... subdivision
S.L.M. ..... Salt Lake Meridian
SW. ..... southwest
t., tp., tps. ..... township, townships

th..... thence
U.S. sur..... United State Survey
U.S.M. ..... Uintah Special Meridian
W..... west
W'ly..... westerly

(2) Where the name of any railroad or railroad company is commonly referred to by the initial letters of the word constituting the name of the railroad, the initial letters may be used as an abbreviation for the full name of the railroad or railroad company in all cases where the name is used in the description of property.

(3) Commonly accepted initial letters, abbreviations, symbols, and figures having local significance may be used. Any initial letters, abbreviations, symbols, and figures shall first be approved by the commission. A written or printed explanation of initial letters, abbreviations, symbols, and figures shall appear in each assessment roll in which they are used and shall be published with each separate advertisement and sale for taxes in which they are used.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1337. Pro rata application of ad valorem tax on property taken by eminent domain or by right of entry agreement.

If any property is taken in fee by the state, any of its subdivisions or agencies, or by any private person, or other body pursuant to either (1) an exercise of the power of eminent domain, or (2) by a right of entry agreement executed by reason of the threat or imminence of eminent domain, the ad valorem property tax assessed and collected on the property under this chapter shall be determined on the basis of the relationship which the number of months the property was held by the property owner, prior to the granting by the court of an order of occupancy or the execution of a right of entry agreement, bears to the taxable year.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1338. Record of delinquent taxes -- Contents of record.

(1) The treasurer shall prepare the official record of delinquent taxes in the same order as property appears on the assessment rolls. The record shall show:

(a) the name of the person to whom the property is assessed;

(b) the description of the delinquent parcel, and a reference to the parcel, serial, or account number under which the property was listed in the assessment roll;

(c) the amount of delinquent taxes, penalties, and administrative costs; and

(d) the date of redemption and by whom the property is redeemed.

(2) The record shall also provide space for entering delinquent taxes assessed

in subsequent years against each parcel which remains unredeemed.

(3) Taxes levied only on a certain kind or class of property for a special purpose shall be separately set out.

Amended by Chapter 181, 1995 General Session

59-2-1339. Form of treasurer's certificate -- Contents of form.

(1) On or before March 15 the treasurer shall complete the official record of delinquent taxes and attach the treasurer's certificate to the record. The certificate shall be substantially in the following form:

State of Utah)
ss.
County of)

I, ____ county treasurer of the county of ____, state of Utah, do certify that to the best of my knowledge the attached record is a full, true, and correct record and constitutes the official record of all properties which became delinquent for the year ____, and shows in the same order as the property appears on the assessment roll, the name of the person to whom the property is assessed, the description of the delinquent parcel and a reference to the parcel, serial, or account number under which the property was listed in the assessment roll, the amount of taxes, penalties, administrative costs, the date of redemption, and by whom the property was redeemed if any redemption has been made.

Signature _____
County Treasurer of _____ County

(2) The official record shall be maintained in the treasurer's office and shall include any subsequent delinquent taxes, penalties, administrative costs, and redemptions pertaining to the properties listed thereon.

Amended by Chapter 75, 2000 General Session

59-2-1342. Assessment and sale of property after attachment of county tax lien.

(1) Property against which a property tax delinquency exists shall be assessed in subsequent years for taxes in the same manner as if no delinquency existed.

(2) The rights of any person purchasing the property from the county at tax sale provided under Section 59-2-1351.1 are subject to the right of the county under any subsequent assessment.

Amended by Chapter 181, 1995 General Session

59-2-1343. Tax Sale Listing.

If any property is not redeemed by March 15 following the lapse of four years from the date when the property tax became delinquent, the county treasurer shall immediately file a listing with the county auditor of all properties whose redemption period is expiring in the nearest forthcoming tax sale. The listing is known as the "Tax

Sale Listing."

Amended by Chapter 181, 1995 General Session

59-2-1345. Daily statement of accounts -- Audits.

(1) Between March 15 and the date of the tax sale, the county treasurer shall transmit daily to the county auditor a statement of the amount of money received by the treasurer during the preceding business day on account of redemptions made on property listed for tax sale. The statement shall set out in separate columns:

(a) the number of the redemption certificate or the receipt issued on account for redemption;

(b) the amount received for taxes, penalties, and administrative costs accrued to the date of the making of the tax sale record;

(c) the amount received for administrative costs subsequently accruing; and

(d) the amount received as interest accrued.

(2) The county auditor shall audit the treasurer's tax sale records at least once a year and the treasurer shall account to the auditor for all money due the county by reason of any redemptions or payments on account for redemption made, including interest as required by law.

(3) Before the tax sale listing under Section 59-2-1343 is compiled, the auditor shall credit the treasurer upon the books of the county with the sums charged for delinquent taxes, penalties, and administrative costs charged against all real estate upon which the period of redemption is expiring in the nearest forthcoming tax sale.

Amended by Chapter 181, 1995 General Session

59-2-1346. Redemption -- Time allowed.

(1) (a) Property may be redeemed on behalf of the record owner by any person at any time prior to the tax sale which shall be held in May or June as provided in Section 59-2-1351 following the lapse of four years from the date the property tax became delinquent.

(b) A person may redeem property by paying to the county treasury all delinquent taxes, interest, penalties, and administrative costs that have accrued on the property.

(2) At any time prior to the expiration of the period of redemption the county treasurer shall accept and credit on account for the redemption of property, payments in amounts of not less than $10, except for the final payment, which may be in any amount. For the purpose of computing the amount required for redemption and for the purpose of distributing the payments received on account, all payments shall be applied in the following order:

(a) against the interest and administrative costs accrued on the delinquent tax for the last year included in the delinquent account at the time of payment;

(b) against the penalty charged on the delinquent tax for the last year included in the delinquent account at the time of payment;

(c) against the delinquent tax for the last year included in the delinquent

account at the time of payment;

(d) against the interest and administrative costs accrued on the delinquent tax for the next to last year included in the delinquent account at the time of payment;

(e) and so on until the full amount of the delinquent taxes, penalties, administrative costs, and interest on the unpaid balances are paid within the period of redemption.

Amended by Chapter 181, 1995 General Session

59-2-1347. Redemption -- Adjustment or deferral of taxes -- Interest.

(1) (a) If any interested person applies to the county legislative body for an adjustment or deferral of taxes levied against property assessed by the county assessor, a sum less than the full amount due may be accepted, or the full amount may be deferred, where, in the judgment of the county legislative body, the best human interests and the interests of the state and the county are served. Nothing in this section prohibits the county legislative body from granting retroactive adjustments or deferrals if the criteria established in this Subsection (1) are met.

(b) If any interested person applies to the commission for an adjustment of taxes levied against property assessed by the commission, a sum less than the full amount due may be accepted, where, in the judgment of the commission, the best human interests and the interests of the state and the county are served.

(2) If an application is made, the applicant shall submit a statement, setting forth the following:

(a) a description of the property;

(b) the value of the property for the current year;

(c) the amount of delinquent taxes, interest, and penalties;

(d) the amount proposed to be paid in settlement or to be deferred; and

(e) any other information required by the county legislative body.

(3) (a) Blank forms for the application shall be prepared by the commission.

(b) A deferral may not be granted without the written consent of the holder of any mortgage or trust deed outstanding on the property.

(c) The amount deferred shall be recorded as a lien on the property and shall bear interest at a rate equal to the lesser of:

(i) 6%; or

(ii) the federal funds rate target:

(A) established by the Federal Open Markets Committee; and

(B) that exists on the January 1 immediately preceding the day on which the taxes are deferred.

(d) The amount deferred together with accrued interest shall be due and payable when the property is sold or otherwise conveyed.

(4) Within 10 days after the consummation of any adjustment or deferral, the county legislative body or the commission, as the case may be, shall cause the adjustment or deferral to be posted in the county where the property involved is located. The publication shall contain:

(a) the name of the applicant;

(b) the parcel, serial, or account number of the property;
(c) the value of the property for the current year;
(d) the sum of the delinquent taxes, interest, and penalty due; and
(e) the adjusted amount paid or deferred.
(5) A record of the action taken by the county legislative body shall be sent to the commission at the end of each month for all action taken during the preceding month. A record of the action taken by the commission shall be sent to the county legislative body of the counties affected by the action.

Amended by Chapter 306, 2007 General Session

59-2-1348. Certificate of redemption.

If any property is redeemed, the county treasurer shall make the proper entry in the record of tax sales filed in the treasurer's office and issue a certificate of redemption, which is prima facie evidence of the redemption, and may be recorded in the office of the county recorder without acknowledgment.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1349. Co-owners -- Procedures for redemption.

If two or more persons own an undivided interest in property on which a delinquency exists, any owner may redeem the owner's interest in the property upon payment of that portion of the taxes, interest, penalties, and administrative costs which the owner's interest bears to the whole, as determined by the county legislative body.

Amended by Chapter 143, 1997 General Session

59-2-1350. Land irregularly or erroneously assessed not to be sold.

(1) If the county auditor discovers before the tax sale that because of an irregular or erroneous assessment any property should not be sold, the auditor may not sell the property, and the county legislative body shall cause the tax records to reflect the correction in the next succeeding year, on the basis of the value and rates of the year for which it was erroneously assessed, to be collected as other taxes are collected.
(2) If the county auditor, subject to approval by the county legislative body, issues a written finding that it may be in the best interest of the public to withdraw a property from the tax sale, the county auditor may withdraw the property from the sale.

Amended by Chapter 181, 1995 General Session

59-2-1351. Sales by county -- Notice of tax sale -- Entries on record.

(1) (a) Upon receiving the tax sale listing from the county treasurer, the county auditor shall select a date for the tax sale for all real property on which a delinquency exists that was not previously redeemed and upon which the period of redemption is expiring in the nearest tax sale.

(b) The tax sale shall be conducted in May or June of the current year.

(2) Notice of the tax sale shall be provided as follows:

(a) sent by certified and first class mail to the last-known recorded owner, the occupant of any improved property, and all other interests of record, as of the preceding March 15, at their last-known address; and

(b) published:

(i) four times in a newspaper published and having general circulation in the county, once in each of four successive weeks immediately preceding the date of sale; and

(ii) in accordance with Section 45-1-101 for four weeks immediately preceding the date of sale; and

(c) if no newspaper is published in the county, posted in five public places in the county, as determined by the auditor, at least 25 but no more than 30 days prior to the date of sale.

(3) The notice shall be in substantially the following form:

NOTICE OF TAX SALE

Notice is hereby given that on _____(month\day\year), at __ o'clock __. m., at the front door of the county courthouse in ____ County, Utah, I will offer for sale at public auction and sell to the highest bidder for cash, under the provisions of Section 59-2-1351.1, the following described real property located in the county and now delinquent and subject to tax sale. A bid for less than the total amount of taxes, interest, penalty, and administrative costs which are a charge upon the real estate will not be accepted.

(Here describe the real estate)

IN WITNESS WHEREOF I have hereunto set my hand and official seal on _____(month\day\year).

_____
County Auditor

_____
County

(4) (a) The notice sent by certified mail in accordance with Subsection (2)(a) shall include:

(i) the name and last-known address of the last-known recorded owner of the property to be sold;

(ii) the parcel, serial, or account number of the delinquent property; and

(iii) the legal description of the delinquent property.

(b) The notice published in a newspaper in accordance with Subsection (2)(b) shall include:

(i) the name and last-known address of the last-known recorded owner of each parcel of property to be sold; and

(ii) the street address or the parcel, serial, or account number of the delinquent parcels.

Amended by Chapter 388, 2009 General Session

59-2-1351.1. Tax sale -- Combining certain parcels -- Acceptable bids -- Deeds.

(1) (a) At the time specified in the notice the auditor shall:

(i) attend at the place appointed, offer for sale, and sell all real property for which an acceptable bid is made; and

(ii) refuse to offer a parcel of real property for sale if the description of the real property is so defective as to convey no title.

(b) The auditor may post at the place of sale a copy of the published list of real property to be offered and cry the sale by reference to the list rather than crying each parcel separately.

(2) (a) The tax commission shall establish, by rule, minimum procedural standards applicable to tax sales.

(b) For matters not addressed by commission rules, the county legislative body, upon recommendation by the county auditor, shall establish procedures, by ordinance, for the sale of the delinquent property that best protect the financial interest of the delinquent property owner and meet the needs of local governments to collect delinquent property taxes due.

(3) The county governing body may authorize the auditor to combine for sale two or more contiguous parcels owned by the same party when:

(a) the parcels are a single economic or functional unit;

(b) the combined sale will best protect the financial interests of the delinquent property owner; and

(c) separate sales will reduce the economic value of the unit.

(4) The governing body may accept any of the following bids:

(a) the highest bid amount for the entire parcel of property, however, a bid may not be accepted for an amount which is insufficient to pay the taxes, penalties, interest, and administrative costs; or

(b) a bid in an amount sufficient to pay the taxes, penalties, interest, and administrative costs, for less than the entire parcel.

(i) The bid which shall be accepted shall be the bid of the bidder who will pay in cash the full amount of the taxes, penalties, interest, and administrative costs for the smallest portion of the entire parcel.

(ii) The county auditor at the tax sale or the county legislative body following the tax sale shall reject a bid to purchase a strip of property around the entire perimeter of the parcel, or a bid to purchase a strip of the parcel which would prevent access to the remainder of the parcel by the redemptive owner or otherwise unreasonably diminish the value of that remainder.

(iii) If the bid accepted is for less than the entire parcel, the auditor shall note the fact, with a description of the property covered by the bid, upon the tax sale record and the balance of the parcel not affected by the bid shall be considered to have been redeemed by the owner.

(5) The county legislative body may decide that none of the bids are acceptable.

(6) Once the county auditor has closed the sale of a particular parcel of property as a result of accepting a bid on the parcel, the successful bidder or purchaser of the property may not unilaterally rescind the bid. The county legislative body, after

acceptance of a bid, may enforce the terms of the bid by obtaining a legal judgment against the purchaser in the amount of the bid, plus interest and attorney's fees.

(7) Any sale funds which are in excess of the amount required to satisfy the delinquent taxes, penalties, interest, and administrative costs of the delinquent property shall be treated as unclaimed property under Title 67, Chapter 4a, Unclaimed Property Act.

(8) All money received upon the sale of property made under this section shall be paid into the county treasury, and the treasurer shall settle with the taxing entities as provided in Section 59-2-1366.

(9) (a) The county auditor shall, after acceptance by the county governing body, and in the name of the county, execute deeds conveying in fee simple all property sold at the public sale to the purchaser and attest this with the auditor's seal. Deeds issued by the county auditor under this section shall recite the following:

(i) the total amount of all the delinquent taxes, penalties, interest, and administrative costs which were paid in for the execution and delivery of the deed;

(ii) the year for which the property was assessed, the year the property became delinquent, and the year the property was subject to tax sale;

(iii) a full description of the property; and

(iv) the name of the grantee.

(b) When the deed is executed and delivered by the auditor, it shall be prima facie evidence of the regularity of all proceedings subsequent to the date the taxes initially became delinquent and of the conveyance of the property to the grantee in fee simple.

(c) The deed issued by the county auditor under this section shall be recorded by the county recorder.

(d) The fee for the recording shall be included in the administrative costs of the sale.

(e) The deed shall be substantially in the following form:

TAX DEED

____ County, a body corporate and politic of the state of Utah, grantor, hereby conveys to ____, grantee, of ____ the following described real estate in ____ County, Utah:

(Here describe the property conveyed)

This conveyance is made in consideration of payment by the grantee of $____, representing the total amount owing for delinquent taxes, penalties, interest, and administrative costs constituting a charge against the real property for nonpayment of general taxes assessed against it for the years ____ through ____ in the sum of $____.

Dated _____(month\day\year).

(Auditor's Seal)

County _____

By _____

County Auditor

Amended by Chapter 75, 2000 General Session

59-2-1351.3. No purchaser at tax sale -- Property struck off to county.

(1) Any property offered for sale for which there is no purchaser shall be struck off to the county by the county auditor, who shall then:

(a) publicly declare substantially as follows: "All property here offered for sale which has not been struck off to a private purchaser is hereby struck off and sold to the county of ____ (naming the county), and I hereby declare the fee simple title of the property to be vested in the county";

(b) make an endorsement opposite each of the entries in the delinquency tax sale record described in Section 59-2-1338 substantially as follows: "The fee simple title to the property described in this entry in the year of ____, sold and conveyed to the county of ____ in payment of general taxes charged against the property"; and

(c) sign the auditor's name to the record.

(2) The fee simple title to the property shall then vest in the county.

(3) After following the procedures in Subsection (1), the auditor shall deposit the tax sale record with the county recorder. The record shall become a part of the official records of the recorder and is considered to have been recorded by the recorder.

(4) The recorder shall make the necessary entries in the index, abstract record, and plat book showing the conveyance of all property sold and conveyed to the county pursuant to this section.

Amended by Chapter 75, 2000 General Session

59-2-1351.5. Disposition of property struck off to county.

(1) (a) All property acquired by the county under this part may be disposed of for a price and upon terms determined by the county legislative body.

(b) If property is sold under a contract of sale and title remains in the county, the equity of the purchaser shall be subject to taxation as other taxable property.

(c) The county clerk may execute deeds for all property sold under this subsection in the name of the county and attest the same by seal, vesting in the purchaser all of the title of all taxing entities in the real estate so sold.

(d) (i) Money received from the sale of property under this section shall first be applied to the cost of administering and supervising the property.

(ii) Any remaining money shall be apportioned to state and other taxing entities with an interest in the taxes last levied upon the property in proportion to their respective interests in the taxes.

(iii) The treasurer shall settle with the taxing entities on funds remaining as provided in Section 59-2-1366.

(iv) Money in excess of claims under this subsection shall be paid to the state treasurer and treated as unclaimed property under Title 67, Chapter 4a, Unclaimed Property Act.

(2) (a) The county legislative body may rent or lease any property held in the name of the county any time after the tax sale for a price and upon terms determined by the governing body.

(b) Lands leased may be sold at the discretion of the county executive, with the approval of the county legislative body, during the term of the lease, but any sale shall be made subject to the lease.

(c) The county executive, with the approval of the county legislative body, may enter into leasehold terms for asphalt, oil, or gas that the county considers to be in the best interest of the county as long as:

(i) the mineral, asphalt, oil, or gas is produced from, or attributable to, the property leased; and

(ii) each lease for oil and gas reserves a royalty of not less than 12-1/2%.

(d) If considered to be in the best interests of the county, the county executive may:

(i) enter into agreements for the pooling or unitizing of acreage with others for unit operations for the production of oil or gas, or both, and for the apportionment of oil or gas royalties, or both, on an acreage or other equitable basis; and

(ii) with the consent of its lessee, change any and all terms of leases issued by it to facilitate the efficient and economic production of oil and gas from the property under its jurisdiction.

(e) All leases for mineral, asphalt, or oil and gas already entered into by county governing bodies are ratified.

(3) (a) Money received as rents from the rental or leasing of property held in the name of the county shall first be applied to the cost of administering and supervising the property.

(b) Any remaining money shall be apportioned to state and other taxing entities with an interest in the taxes last levied upon the property in proportion to their respective interests in the taxes.

(c) The treasurer shall settle with the taxing entities on funds remaining as provided in Section 59-2-1366.

(d) Money in excess of these claims shall be paid to the state treasurer and treated as unclaimed property under Title 67, Chapter 4a, Unclaimed Property Act.

Amended by Chapter 9, 2001 General Session

59-2-1351.7. Partial interest tax sales.

(1) For purposes of this section:

(a) "Tax sale interest purchaser" means an owner of an undivided interest in a parcel of tax sale property that bid for and purchased the undivided interest:

(i) at a tax sale in accordance with Section 59-2-1351.1;

(ii) on or after July 1, 2007; and

(iii) if the undivided interest in the tax sale property equals 49% or less.

(b) "Tax sale property" means a parcel of real property that was sold in part as an undivided interest at a tax sale in accordance with Section 59-2-1351.1.

(2) If a parcel of tax sale property is sold, a tax sale interest purchaser may only receive from the sale of the tax sale property, an amount equal to the greater of:

(a) the amount the tax sale interest purchaser paid for the undivided interest in the tax sale property at the tax sale plus 12% interest; or

(b) the tax sale interest purchaser's pro rata share of the sale price of the tax sale property based on the percentage of the undivided interest the tax sale interest purchaser holds in the tax sale property.

(3) A tax sale interest purchaser may not object to the sale of the tax sale property if the tax sale interest purchaser receives an amount in accordance with Subsection (2).

Enacted by Chapter 109, 2007 General Session

59-2-1352. Purchaser of invalid tax title -- Purchaser's lien -- Extent of lien -- Priority of lien -- Foreclosure of lien.

Every person who has purchased or purchases any invalid tax title to any real property in this state shall, from the effective date of this part, have a lien against the property for the recovery of the amount of the purchase price paid to the county to the extent that the county would have a lien prior to the sale by the county, but in no event may the lien be greater than the amount of taxes, interest, and penalties, or the amount actually paid, whichever is smaller. Taxes paid by the purchaser for subsequent years after the purchase from the county shall be included in the amount secured by the lien which has not already been recovered. The lien shall have the same priority against the property as the lien for the delinquent taxes which were liquidated by the purchase except that it may not have preference over any right, title, interest in, or lien against, the property acquired since the purchase of the tax title for value and without notice, and the lien shall bear interest at the legal rate for a period of not to exceed four years. The lien shall be foreclosed in any action in which the invalidity of the tax title is determined. If the lien is not foreclosed at the time of the determination of the invalidity of the tax title, any later action to foreclose the lien shall be barred.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1353. Foreclosure of lien claimed by county -- Time -- Venue -- Parties -- Pleading.

In all cases where any county claims a lien on real estate for delinquent general taxes which have not been paid for a period of four years, the county may foreclose the lien by an action in the district court of the county in which the real estate is located. In this action all persons owning, having, or claiming an interest in or lien upon the real estate or any part of the real estate may be joined as defendants, and the complaint shall contain a description of the property, together with the amount claimed to be due on the property, including interest, penalties, and administrative costs. If the name of the owner of any real estate cannot be ascertained from the records of the county, the complaint shall state that the owner is unknown to the plaintiff. It is sufficient to allege in the complaint that a general tax has been duly levied upon the described real estate, without stating any of the proceedings or steps leading up to the levy of the tax.

Amended by Chapter 181, 1995 General Session

59-2-1354. Notice of intention to foreclose -- Service of notice.

Before the commencement of any action, 30 days' written notice of intention to do so shall be given to the owner, if known, by enclosing the notice in an envelope

plainly addressed to the owner at the owner's post office address, as shown on the last assessment roll of the county in which the real estate is located, postage prepaid. If the post office address of any owner does not appear on the assessment roll, notice shall be addressed to the owner at the general delivery at the post office in the city, town, or precinct where the real estate is located, postage prepaid. Service of the notice is complete when deposited in the United States mail.

Amended by Chapter 9, 2001 General Session

59-2-1355. Trial -- Findings -- Decree.

The action shall be tried and determined as actions to foreclose mortgage liens, and the court shall determine and adjudge the amount of taxes, interest, penalties, and costs on each parcel of property which has been separately assessed, and shall enter its decree determining the rights, and priorities of liens, of all parties to the action. The court shall also in its decree direct the sheriff to advertise and sell, as in the case of sales on execution, each parcel of property, or so much as may be necessary for the payment of the total amount of the general taxes due, with interest, penalties, and costs, unless the amount is paid within a time named in the decree, but not to exceed 30 days from the entry of the decree. The decree shall provide that any of the parties to the action may become purchasers at any sale, that if less than an entire parcel of property is sold, it shall be sold at foreclosure sale in such a manner as not to convey to the purchaser a strip of property around the entire perimeter of the parcel, or a strip of the parcel which, if conveyed, would prevent access to the remainder of the parcel by the redemptive owner or otherwise unreasonably diminish the value of that remainder, as determined by the county executive. The decree shall also provide that if all delinquent taxes, together with interest, levied on the parcel of property, and all penalties and costs, are paid within the time fixed in the decree for payment, then no sale may be made. After the time for redemption has expired, if no redemption has been made, the sheriff shall execute and deliver to the purchaser a deed conveying to the purchaser all the right, title, and interest of each and all the parties, but subject to the lien of any general or special taxes which may have been levied on the property conveyed, other than those for the payment of which the sale has been made.

Amended by Chapter 227, 1993 General Session

59-2-1356. Sale -- Certificate of sale to be issued.

If any foreclosure sale is made, the sheriff shall give to the purchaser a certificate of sale as in the case of sales upon execution, and shall file a duplicate of the certificate with the county recorder and county auditor. Where any property has been purchased by the county at any foreclosure sale, the certificate of sale may be sold and assigned by it to any person upon payment of a sum not less than the amount for which it was sold to the county, together with interest. The assignee acquires all the rights of the county in the property.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1357. Redemption at foreclosure sale.

Any person interested in any real estate sold at foreclosure sale under any decree has the same right to redeem the real estate from the sale, within the same time and upon the same terms as if the sale had been made upon execution.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1358. Foreclosure deemed a cumulative remedy.

The foreclosure may not deprive any county of any other method or means provided for the collection or enforcement of any taxes, but is construed as providing an additional or cumulative remedy for the collection of general taxes levied and assessed against the real estate in the county.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1359. Collection of taxes -- Removal or destruction of property.

The tax commission may, under the conditions existing in this section, declare the taxes to be immediately due and payable if it finds:

(1) that the owner or lessee of any real property, including improvements, subject to taxation within the state is removing, destroying, or is about to remove or destroy the property to such an extent as to render doubtful the payment of delinquent taxes, penalty, and interest, if any, and the payment of current taxes; or

(2) that the continued operation and extraction of ores and minerals from mine or mining claims, or the method employed by the owner or lessee, contractor, or other person working upon or operating any mine or mining claim will render doubtful the payment of delinquent taxes, penalty, and interest, if any, for past years or the current year.

Amended by Chapter 4, 1992 General Session

59-2-1360. Proceedings before commission.

Proceedings to make findings under Section 59-2-1359 may be commenced before the commission upon its own initiative, the request of any taxing entity, or the request of any taxpayer.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1361. Notice of findings -- Proceedings in district court -- Injunction -- Determining taxes due -- Security during proceedings.

(1) (a) Notice that the commission has made a finding and declaration under Section 59-2-1359 shall be given to the owner of the property in the same manner as is provided by law for the giving of the notice of assessment by the commission.

(b) The notice required by this section shall include a notice of the location and time of the hearing in which the findings of the commission may be protested.

(c) (i) The hearing must be scheduled at least 10 days after the mailing of the

notice.

(ii) The owner, lessee, contractor, or operator of the property shall be afforded the opportunity to protest the commission's findings at the hearing.

(2) After the scheduled hearing, the taxes shall become immediately due and payable if any of the following occur:

(a) the owner, contractor, lessee, or operator of the property fails to appear at the hearing; or

(b) the commission sustains the findings.

(3) If the taxes are not paid within 10 days from the date due, the commission may commence a proceeding in court in its name, but for the benefit of the state and the taxing entities interested in the taxes, in the district court of the county in which the property is located to determine the lien of the taxes and to foreclose the lien.

(4) In any proceeding the court may order any of the following:

(a) enjoin and restrain the destruction or removal of the property or any part of the property;

(b) appoint a receiver to operate the property; and

(c) order and direct that the proceeds from the property, or so much of it as may be necessary to pay the amount of the taxes, be withheld and impounded or paid on account of the taxes from time to time as the court may direct.

(5) In determining the amount of taxes due for any year for which the levy has not been fixed and for the purposes of the proceeding in court, the commission shall use the levy prevailing within the taxing entity where the property is located for the last preceding year.

(6) In any court proceeding brought to enforce the payment of taxes made due and payable under this section, the findings of the commission shall be for all purposes presumptive evidence of the necessity for the action for the protection of the public revenues and of the amount of taxes to be paid.

(7) (a) Payment of taxes due under this section will not be enforced through the proceedings authorized by this section prior to the expiration of the time otherwise allowed for payment of taxes if the owner, lessee, contractor, or other person operating the property furnishes security approved by the commission that the person will timely submit all required returns and tax payments.

(b) The commission may, from time to time, require additional security for the payment of taxes.

(8) The commission may promulgate rules to implement this section.

Amended by Chapter 9, 2001 General Session

59-2-1362. Certified copy of tax sale record prima facie evidence of regularity.

A copy of the record of any tax sale duly certified by the official custodian of the record at the time of the certificate under the seal of office as a true copy of the entry in the official record showing the sale is prima facie evidence of the facts shown in the record. The regularity of all proceedings connected with the assessment, valuation, notice, equalization, levies, tax notices, advertisement, and sale of property described

in the record is presumed, and the burden of showing any irregularity in any of the proceedings resulting in the sale of property for the nonpayment of delinquent taxes shall be on the person who asserts it.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1363. Misnomer or mistake as to ownership does not affect sale.

If property is sold for correctly imposed taxes as the property of a particular person, no misnomer of the owner or supposed owner, or other mistake relating to ownership, affects the sale or renders it void or voidable.

Repealed and Re-enacted by Chapter 3, 1988 General Session

59-2-1364. Record of deeds issued -- Acknowledgment.

The county auditor shall make and keep on file in the county auditor's office a record of all tax deeds issued. The acknowledgment of all deeds shall be taken by the county recorder, or other county officer authorized to take acknowledgments, free of charge. No charge may be made by the county auditor for the making of any deed where the county is the grantee.

Amended by Chapter 143, 1997 General Session

59-2-1365. Payment to taxing entities by county treasurer -- Investment of proceeds -- Transfer and receipt of money between taxing entities.

(1) Except as provided in Subsections (3) and (4), the county treasurer shall pay to the treasurer of each taxing entity in the county on or before the tenth day of each month:

(a) all money that the county treasurer received during the preceding month that is due to the taxing entity; and

(b) each taxing entity’s proportionate share of money the county treasurer received during the preceding month for:

(i) delinquent taxes;

(ii) interest;

(iii) penalties; and

(iv) costs on all tax sales and redemptions.

(2) Except as provided in Subsections (3) and (4), the county treasurer shall:

(a) adopt an appropriate procedure to account for the transfer and receipt of money between taxing entities;

(b) make a final annual settlement on March 31 with each taxing entity, including providing the taxing entity a written statement for the most recent calendar year of the amount of:

(i) total taxes charged;

(ii) current taxes collected;

(iii) treasurer’s relief;

(iv) redemptions;

(v) penalties;
(vi) interest;
(vii) in lieu fee collections on motor vehicles; and
(viii) miscellaneous collections;
(c) invest the money it receives under Subsection (1); and
(d) pay annually to each taxing entity in the county the interest earned on the invested money under Subsection (2)(c):
(i) on or before March 31; and
(ii) apportioned according to the proportion that the taxing entity's tax receipts bear to the total tax receipts received by the county treasurer.
(3) Notwithstanding Subsections (1) and (2), a county may:
(a) negotiate with a taxing entity a procedure other than the procedure provided in Subsection (2)(a) to account for the transfer and receipt of money between the county and the taxing entity; and
(b) establish a date other than the tenth day of each month for the county treasurer to make payments required under Subsection (1).
(4) This section does not invalidate an existing contract between a county and a taxing entity relating to the apportionment and payment of money or interest.

Amended by Chapter 342, 2011 General Session

59-2-1366. Apportionment of redemption or assignment money.

(1) If property sold to the county under this title is redeemed, or the certificate of sale is assigned, the money received on account of the redemption or assignment shall be distributed as follows: the original and subsequent taxes, and 40% of interest, penalty, and costs of sale received shall be apportioned to the taxing entities interested, in proportion to their respective taxes, and the balance shall be paid to the county.
(2) If a sum less than the taxes, interest, penalty, and costs is accepted in settlement, the proceeds of the settlement shall be applied, first to the payment of the original and subsequent taxes, and the remainder, if any, to the payment of interest, penalty, and costs.

Amended by Chapter 241, 2001 General Session

59-2-1372. Auditor duties -- Final settlement with treasurer -- Delinquent Tax Control Account.

The auditor shall audit the books and records of the treasurer and make a final settlement with the treasurer. In making the settlement the auditor shall credit the treasurer with the amount of taxes for the previous year which are found to be still unpaid and shall then charge the treasurer upon the books of the county in an account which shall be called the Delinquent Tax Control Account with the full amount of delinquent taxes, penalty, and costs found due the county for the previous year.

Enacted by Chapter 3, 1988 General Session

59-2-1501. Title.

This part is known as the "Transportable Factory-Built Housing Unit Act."

Enacted by Chapter 243, 2004 General Session

59-2-1502. Definitions.

As used in this part:

(1) "Manufactured home" is as defined in Section 41-1a-102.

(2) "Mobile home" is as defined in Section 41-1a-102.

(3) "Transportable factory-built housing unit" means a:

(a) mobile home; or

(b) manufactured home.

(4) "Transportable factory-built housing unit park" means any tract of land on which two or more unit spaces are:

(a) leased;

(b) rented; or

(c) offered for:

(i) lease; or

(ii) rent.

(5) "Unit space" means a specific area of land within a transportable factory-built housing unit park that is designed to accommodate one transportable factory-built housing unit for residential purposes.

Enacted by Chapter 243, 2004 General Session

59-2-1503. Property tax treatment of transportable factory-built housing units.

Regardless of whether a transportable factory-built housing unit is considered to be real property or personal property under Section 70D-2-401, for purposes of this chapter:

(1) a transportable factory-built housing unit that is located in a transportable factory-built housing unit park:

(a) except as provided in Subsection (1)(b), is considered to be personal property; and

(b) notwithstanding Subsection (1)(a), is considered to be real property if the owner of the transportable factory-built housing unit owns the real property upon which the transportable factory-built housing unit is located; and

(2) a transportable factory-built housing unit that is not located in a transportable factory-built housing unit park:

(a) except as provided in Subsection (2)(b), is considered to be personal property; and

(b) notwithstanding Subsection (2)(a), is considered to be real property if the transportable factory-built housing unit is an improvement.

Amended by Chapter 72, 2009 General Session

59-2-1601. Definitions.

As used in this part:

(1) "County additional property tax" means the property tax levy described in Subsection 59-2-1602(4).

(2) "Fund" means the Property Tax Valuation Agency Fund created in Section 59-2-1602.

(3) "Multicounty Appraisal Trust" means the Multicounty Appraisal Trust created by an agreement:

(a) entered into by all of the counties in the state; and

(b) authorized by Title 11, Chapter 13, Interlocal Cooperation Act.

(4) "Multicounty assessing and collecting levy" means a property tax levied in accordance with Subsection 59-2-1602(2).

Amended by Chapter 270, 2014 General Session

59-2-1602. Property Tax Valuation Agency Fund -- Creation -- Statewide levy -- Additional county levy.

(1) (a) There is created an agency fund known as the "Property Tax Valuation Agency Fund."

(b) The fund consists of:

(i) deposits made and penalties received under Subsection (3); and

(ii) interest on money deposited into the fund.

(c) Deposits, penalties, and interest described in Subsection (1)(b) shall be disbursed and used as provided in Section 59-2-1603.

(2) (a) Each county shall annually impose a multicounty assessing and collecting levy as provided in this Subsection (2).

(b) The tax rate of the multicounty assessing and collecting levy is:

(i) for the calendar year beginning on January 1, 2014, .000013; and

(ii) for a calendar year beginning on or after January 1, 2015, the certified revenue levy.

(c) The multicounty assessing and collecting levy may not exceed the certified revenue levy as defined in Section 59-2-102, unless:

(i) the Legislature authorizes a multicounty assessing and collecting levy that exceeds the certified revenue levy; and

(ii) the state complies with the notice requirements of Section 59-2-926.

(d) Revenue collected from the multicounty assessing and collecting levy shall be allocated as follows:

(i) 82% of the revenue collected shall be deposited into the Multicounty Appraisal Trust; and

(ii) 18% of the revenue collected shall be deposited into the Property Tax Valuation Agency Fund.

(3) (a) The multicounty assessing and collecting levy imposed under Subsection (2) shall be separately stated on the tax notice as a multicounty assessing and collecting levy.

(b) The multicounty assessing and collecting levy is:

(i) exempt from Sections 17C-1-403 through 17C-1-406;

(ii) in addition to and exempt from the maximum levies allowable under Section 59-2-908; and

(iii) exempt from the notice and public hearing requirements of Section 59-2-919.

(c) (i) Each county shall transmit quarterly to the state treasurer the revenue collected from the multicounty assessing and collecting levy.

(ii) The revenue transmitted under Subsection (3)(c)(i) shall be transmitted no later than the tenth day of the month following the end of the quarter in which the revenue is collected.

(iii) If revenue transmitted under Subsection (3)(c)(i) is transmitted after the tenth day of the month following the end of the quarter in which the revenue is collected, the county shall pay an interest penalty at the rate of 10% each year until the revenue is transmitted.

(d) The state treasurer shall allocate the penalties received under this Subsection (3) in the same manner as revenue is allocated under Subsection (2)(d).

(4) (a) A county may levy a county additional property tax in accordance with this Subsection (4).

(b) The county additional property tax:

(i) shall be separately stated on the tax notice as a county assessing and collecting levy;

(ii) may not be incorporated into the rate of any other levy;

(iii) is exempt from Sections 17C-1-403 through 17C-1-406; and

(iv) is in addition to and exempt from the maximum levies allowable under Section 59-2-908.

(c) Revenue collected from the county additional property tax shall be used to:

(i) promote the accurate valuation and uniform assessment levels of property as required by Section 59-2-103;

(ii) promote the efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes;

(iii) fund state mandated actions to meet legislative mandates or judicial or administrative orders that relate to promoting:

(A) the accurate valuation of property; and

(B) the establishment and maintenance of uniform assessment levels within and among counties; and

(iv) establish reappraisal programs that:

(A) are adopted by a resolution or ordinance of the county legislative body; and

(B) conform to rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 270, 2014 General Session

59-2-1603. Allocation of money in the Property Tax Valuation Agency Fund -- Use of funds.

(1) The state auditor shall annually conduct a study of each county of the fourth,

fifth, or sixth class to determine:

(a) the costs of assessing and collecting property taxes;

(b) the ability to generate revenue from an assessing and collecting levy; and

(c) the tax burden of levying a property tax sufficient to cover the costs of assessing and collecting property taxes.

(2) Subject to Subsection (3), and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the auditor shall make rules providing for the allocation of money in the Property Tax Valuation Agency Fund.

(3) The rules described in Subsection (2) shall give priority in the allocation of money in the Property Tax Valuation Agency Fund to the counties of the fourth, fifth, or sixth class that the state auditor determines:

(a) in accordance with the study required by Subsection (1), to have the highest tax burden; or

(b) to have the greatest need to improve:

(i) the accurate valuation and uniform assessment levels of property as required by Section 59-2-103; or

(ii) the efficiency of the property tax system.

(4) A county shall use money disbursed from the Property Tax Valuation Agency Fund to:

(a) offset the costs of assessing and collecting property taxes;

(b) improve the accurate valuation and uniform assessment levels of property as required by Section 59-2-103; or

(c) improve the efficiency of the property tax system.

(5) If money remains in the fund after all allocations have been distributed to receiving counties in a calendar year, the state auditor shall retain the money in the fund for distribution the following calendar year.

Amended by Chapter 270, 2014 General Session

59-2-1605. Accounting records for levies.

Each county shall separately budget and account for the use of any money received or expended from a levy imposed under Section 59-2-1602.

Amended by Chapter 270, 2014 General Session

59-2-1606. CAMA system funding for counties -- Disbursements to the Multicounty Appraisal Trust -- Use of funds.

(1) As used in this section, "CAMA" means computer assisted mass appraisal.

(2) (a) The funds deposited into the Multicounty Appraisal Trust in accordance with Section 59-2-1602 shall be used to provide funding for a statewide CAMA system that will promote:

(i) the accurate valuation of property;

(ii) the establishment and maintenance of uniform assessment levels among counties within the state; and

(iii) efficient administration of the property tax system, including the costs of

assessment, collection, and distribution of property taxes.

(b) The Multicounty Appraisal Trust shall determine which projects shall be funded and oversee the administration of a statewide CAMA system.

Amended by Chapter 270, 2014 General Session

59-2-1701. Title.

This part is known as the "Urban Farming Assessment Act."

Enacted by Chapter 197, 2012 General Session

59-2-1702. Definitions.

As used in this part:

(1) "Actively devoted to urban farming" means that:

(a) land is devoted to active urban farming activities;

(b) the land produces greater than 50% of the average agricultural production per acre:

(i) as determined under Section 59-2-1703; and

(ii) for the given type of land and the given county or area.

(2) "Rollback tax" means the tax imposed under Section 59-2-1705.

(3) (a) Subject to Subsection (3)(b), "urban farming" means cultivating food:

(i) with a reasonable expectation of profit from the sale of the food; and

(ii) from irrigated land located in a county:

(A) of the first class, as defined in Section 17-50-501; or

(B) of the second class, as defined in Section 17-50-501, if the county is at least 98% urban, as determined by the United States Census Bureau.

(b) "Urban farming" does not include:

(i) cultivating food derived from an animal; or

(ii) grazing.

(4) "Withdrawn from this part" means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:

(a) an owner voluntarily requests that the land be withdrawn from this part;

(b) the land is no longer actively devoted to urban farming;

(c) (i) the land has a change in ownership; and

(ii) (A) the new owner fails to apply for assessment under this part as required by Section 59-2-1707; or

(B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;

(d) (i) the legal description of the land changes; and

(ii) (A) an owner fails to apply for assessment under this part, as required by Section 59-2-1707; or

(B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed

under this part;

(e) the owner of the land fails to file an application as provided in Section 59-2-1707; or

(f) except as provided in Section 59-2-1703, the land fails to meet a requirement of Section 59-2-1703.

Amended by Chapter 413, 2014 General Session

59-2-1703. Qualifications for urban farming assessment.

(1) (a) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:

(i) is actively devoted to urban farming;

(ii) is at least two contiguous acres, but less than five acres, in size; and

(iii) has been actively devoted to urban farming for at least two successive years immediately preceding the tax year for which the land is assessed under this part.

(b) Land that is not actively devoted to urban farming may not be assessed as provided in Subsection (1)(a), even if the land is part of a parcel that includes land actively devoted to urban farming.

(2) (a) In determining whether land is actively devoted to urban farming, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:

(i) production levels reported in the current publication of Utah Agricultural Statistics;

(ii) current crop budgets developed and published by Utah State University; or

(iii) the highest per acre value used for land assessed under the Farmland Assessment Act for the county in which the property is located.

(b) A county assessor may not assess land actively devoted to urban farming on the basis of the value that the land has for agricultural use under this part unless an owner annually files documentation with the county assessor:

(i) on a form provided by the county assessor;

(ii) demonstrating to the satisfaction of the county assessor that the land meets the production levels required under this part; and

(iii) except as provided in Subsection 59-2-1707(2)(c)(i), no later than January 30 for each tax year in which the owner applies for assessment under this part.

(3) Notwithstanding Subsection (1)(a)(ii), a county board of equalization may grant a waiver of the acreage requirements of Subsection (1)(a)(ii):

(a) on appeal by an owner; and

(b) if the owner submits documentation to the county assessor demonstrating to the satisfaction of the county assessor that:

(i) the failure to meet the acreage requirements of Subsection (1)(a)(ii) arose solely as a result of an acquisition by a governmental entity by:

(A) eminent domain; or

(B) the threat or imminence of an eminent domain proceeding;

(ii) the land is actively devoted to urban farming; and

(iii) no change occurs in the ownership of the land.

Amended by Chapter 413, 2014 General Session

59-2-1704. Indicia of value for urban farming assessment -- Inclusion of fair market value on certain property tax notices.

(1) The county assessor shall consider only those indicia of value that the land has for agricultural use as determined by the commission when assessing land:

(a) that meets the requirements of Section 59-2-1703 to be assessed under this part; and

(b) for which the owner has:

(i) made a timely application in accordance with Section 59-2-1707 for assessment under this part for the tax year for which the land is being assessed; and

(ii) obtained approval of the application described in Subsection (1)(b)(i) from the county assessor.

(2) In addition to the value determined in accordance with Subsection (1), the fair market value assessment shall be included on the notices described in:

(a) Section 59-2-919.1; and

(b) Section 59-2-1317.

(3) The county board of equalization shall review the agricultural use value and fair market value assessments each year as provided under Section 59-2-1001.

Enacted by Chapter 197, 2012 General Session

59-2-1705. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.

(1) Except as provided in this section or Section 59-2-1710, land that is withdrawn from this part is subject to a rollback tax imposed as provided in this section.

(2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner who fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) $10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) the date the land is first assessed under this part; or

(B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(4) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recording.

(b) The rollback tax collected under this section shall:

(i) be paid into the county treasury; and

(ii) be paid by the county treasurer to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice.

(b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

(6) (a) Subject to Subsection (6)(b), the rollback tax and interest imposed under Subsection (7) are a lien on the land assessed under this part.

(b) The lien described in Subsection (6)(a) shall:

(i) arise upon the imposition of the rollback tax under this section;

(ii) end on the day on which the rollback tax and interest imposed under Subsection (7) are paid in full; and

(iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7) (a) A delinquent rollback tax under this section shall accrue interest:

(i) from the date of delinquency until paid; and

(ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) A rollback tax that is delinquent on September 1 of any year shall be included on the notice required by Section 59-2-1317, along with interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor that the land is withdrawn from this part in accordance with Subsection (2).

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-1703 to be assessed under this part.

(10) (a) Subject to Subsection (10)(b), an owner of land may appeal to the county board of equalization:

(i) a decision by a county assessor to withdraw land from assessment under this part; or

(ii) the imposition of a rollback tax under this section.

(b) An owner shall file an appeal under Subsection (10)(a) no later than 45 days after the day on which the county assessor mails the notice required by Subsection (5).

Amended by Chapter 279, 2014 General Session
Amended by Chapter 413, 2014 General Session

59-2-1706. Land included as urban farming.

(1) (a) Land under a structure used in or related to urban farming, including a barn, shed, silo, crib, or greenhouse, or under a facility used in or related to urban farming, including a lake, dam, pond, stream, or irrigation ditch, is included in determining the total area of land actively devoted to urban farming.

(b) The land described in Subsection (1)(a) shall be included in determining if the land meets the urban farming production requirements of Subsection 59-2-1703(2)(a).

(2) (a) Except as provided in this part, land under a residence and land used in connection with residential use may not be included in determining the total area of land actively devoted to urban farming.

(b) Land described in Subsection (2)(a) shall be valued, assessed, and taxed in accordance with this chapter other than this part.

Enacted by Chapter 197, 2012 General Session

59-2-1707. Application -- Signed statement -- Consent to creation of a lien -- Consent to audit and review -- Notice.

(1) For land to be assessed under this part, an owner of land eligible for assessment under this part shall annually submit an application to the county assessor of the county in which the land is located.

(2) An application required by Subsection (1) shall:

(a) be on a form:

(i) approved by the commission; and

(ii) provided to an owner:

(A) by the county assessor; and

(B) at the request of an owner;

(b) provide for the reporting of information related to this part;

(c) be submitted by:

(i) May 1 of the tax year in which assessment under Subsection (1) is requested if the land was not assessed under this part in the year before the application is submitted; or

(ii) the date otherwise required by this part for land that before the application being submitted has been assessed under this part;

(d) be signed by all of the owners of the land that under the application would be assessed under this part;

(e) be accompanied by the prescribed fees made payable to the county recorder;

(f) include a certification by an owner that the facts set forth in the application or signed statement are true;

(g) include a statement that the application constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part; and

(h) be recorded by the county recorder.

(3) The application required by Subsection (2) constitutes consent by the owners of the land to the creation of a lien upon the land as provided in this part.

(4) (a) Except as provided in Subsections (1) and (2), a county assessor may not require an additional signed statement or application for assessment under this part.

(b) Notwithstanding Subsection (4)(a), a county shall require that an owner provide notice if land is withdrawn from this part as provided in Section 59-2-1705.

(5) A certification under Subsection (2)(f) is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(6) (a) An owner applying for participation under this part or a purchaser or lessee who signs a statement under Subsection (7) is considered to have given consent to a field audit and review by:

(i) the commission;

(ii) the county assessor; or

(iii) the commission and the county assessor.

(b) The consent described in Subsection (6)(a) is a condition to the acceptance of an application or signed statement.

(7) An owner of land eligible for assessment under this part, because a purchaser or lessee actively devotes the land to agricultural use as required by Section 59-2-1703, may qualify the land for assessment under this part by submitting, with the application required under Subsection (2), a signed statement from that purchaser or lessee certifying those facts that would be necessary to meet the requirements of Section 59-2-1703 for assessment under this part.

Enacted by Chapter 197, 2012 General Session

59-2-1708. Change of ownership or legal description.

(1) Subject to the other provisions of this section, land assessed under this part may continue to be assessed under this part if the land continues to comply with the requirements of this part, regardless of whether the land continues to have the same

owner or legal description.

(2) Notwithstanding Subsection (1), land described in Subsection (1) is subject to the rollback tax as provided in Section 59-2-1705 if the land is withdrawn from this part.

(3) Notwithstanding Subsection (1), land is withdrawn from this part if:

(a) there is a change in:

(i) the ownership of the land; or

(ii) the legal description of the land; and

(b) after a change described in Subsection (3)(a):

(i) the land does not meet the requirements of Section 59-2-1703; or

(ii) an owner of the land fails to submit a new application for assessment as provided in Section 59-2-1707.

(4) An application required by this section shall be submitted within 120 days after the day on which there is a change described in Subsection (3)(a).

Enacted by Chapter 197, 2012 General Session

59-2-1709. Separation of land.

Separation of a part of the land that is being valued, assessed, and taxed under this part, either by conveyance or other action of the owner of the land, for a use other than urban farming, subjects the land that is separated to liability for the applicable rollback tax, but does not impair the continuance of urban farming valuation, assessment, and taxation for the remaining land if the remaining land continues to meet the requirements of this part.

Enacted by Chapter 197, 2012 General Session

59-2-1710. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including a county, city, town, school district, local district, or special service district; or

(d) an entity created by the state or the United States, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.

(2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) before the governmental entity acquires the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-1703 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives money or other consideration.

(3) (a) Land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-1705.

(ii) A governmental entity that acquires land under Subsection (3)(a)(i) or (ii) shall make a one-time in lieu fee payment to the county treasurer of the county in which the land is located:

(A) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-1703, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity; or

(B) if the land remaining after the acquisition by the governmental entity is less than two acres, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues collected from the payment:

(i) to the taxing entities in which the land is located; and

(ii) in the same proportion as the revenue from real property taxes is distributed.

(4) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until any tax, one-time in lieu fee payment, and applicable interest due under this part are paid to the county treasurer.

Enacted by Chapter 197, 2012 General Session

59-2-1711. Tax list and duplicate.

The factual details to be shown on the assessor's tax list and duplicate with respect to land that is being valued, assessed, and taxed under this part are the same as those set forth by the assessor with respect to other taxable property in the county.

Enacted by Chapter 197, 2012 General Session

59-2-1712. Rules prescribed by commission.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules and prescribe forms as necessary to administer this part.

Enacted by Chapter 197, 2012 General Session

59-3-101. Short title.

This chapter is known as the "Tax Equivalent Property Act."

Renumbered and Amended by Chapter 2, 1987 General Session

59-3-102. Definitions.

As used in this chapter:

(1) "Tax equivalent payment" means a payment required or authorized by statute to be made in lieu of ad valorem taxes on tax exempt property pursuant to a contract entered into under statutory authority and filed with the county assessor of the county in which the property is located.

(2) "Tax equivalent property" means property on which any tax equivalent payment is made.

Amended by Chapter 3, 1988 General Session

59-3-103. Value of tax equivalent property included as part of value of taxable property.

In determining the value of taxable property within any tax area for purposes of computing the limitation on indebtedness under Article XIV, Sec. 4, Utah Constitution, the value of all tax equivalent property shall be included as a part of the total value of taxable property.

Amended by Chapter 3, 1988 General Session

59-3-104. Tax equivalent property list -- Assessment of tax equivalent property.

The county assessor shall keep a separate list of the tax equivalent property in each tax area in the county, showing the value of all tax equivalent property in each area. The value of tax equivalent property established on the tax equivalent property list is subject to the same process of review and equalization as the value of taxable property shown in the assessment roll. The assessment roll delivered to the county treasurer under Section 59-2-326 shall include the tax equivalent property list as equalized. All tax equivalent property shall be assessed at its fair market value, as defined under Section 59-2-102.

Amended by Chapter 3, 1988 General Session

59-4-101. Tax basis -- Exceptions -- Assessment and collection.

(1) (a) Except as provided in Subsections (1)(b) and (c), a tax is imposed on the possession or other beneficial use enjoyed by any person of any real or personal property which for any reason is exempt from taxation, if that property is used in connection with a business conducted for profit.

(b) Any interest remaining in the state in state lands after subtracting amounts paid or due in part payment of the purchase price as provided in Subsection 59-2-1103(2)(b)(i) under a contract of sale is subject to taxation under this chapter regardless of whether the property is used in connection with a business conducted for profit.

(c) The tax imposed under Subsection (1)(a) does not apply to property exempt from taxation under Section 59-2-1114.

(2) The tax imposed under this chapter is the same amount that the ad valorem property tax would be if the possessor or user were the owner of the property. The amount of any payments which are made in lieu of taxes is credited against the tax imposed on the beneficial use of property owned by the federal government.

(3) A tax is not imposed under this chapter on the following:

(a) the use of property which is a concession in, or relative to, the use of a public airport, park, fairground, or similar property which is available as a matter of right to the use of the general public;

(b) the use or possession of property by a religious, educational, or charitable organization;

(c) the use or possession of property if the revenue generated by the possessor or user of the property through its possession or use of the property inures only to the benefit of a religious, educational, or charitable organization and not to the benefit of any other person;

(d) the possession or other beneficial use of public land occupied under the terms of an agricultural lease or permit issued by the United States or this state;

(e) the use or possession of any lease, permit, or easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit, or easement relates. Every lessee, permittee, or other holder of a right to remove or extract the mineral covered by the holder's lease, right, permit, or easement except from brines of the Great Salt Lake, is considered to be in possession of the premises, notwithstanding the fact that other parties may have a similar right to remove or extract another mineral from the same lands or estates;

(f) the use or possession of property by a public agency, as defined in Section 11-13-103, to the extent that the ownership interest of the public agency in that property is subject to a fee in lieu of ad valorem property tax under Section 11-13-302; or

(g) the possession or beneficial use of public property as a tollway by a private entity through a tollway development agreement as defined in Section 72-6-202.

(4) A tax imposed under this chapter is assessed to the possessors or users of the property on the same forms, and collected and distributed at the same time and in the same manner, as taxes assessed owners, possessors, or other claimants of property which is subject to ad valorem property taxation. The tax is not a lien against

the property, and no tax-exempt property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.

Amended by Chapter 36, 2006 General Session

59-4-102. Failure to pay tax -- Remedies of county.

A tax due and unpaid under this chapter constitutes a debt due the county for and on behalf of the various taxing units concerned with the tax. If the tax imposed by this chapter or any portion of the tax is not paid at the time the tax becomes delinquent, the county auditor shall issue a warrant in the name of the county directed to the clerk of the district court for that county. The clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the delinquent taxpayer mentioned in the warrant and, in the appropriate columns, the amount of tax, penalties, interest, and other costs for which the warrant is issued and the date when the warrant is filed. The warrant so docketed has the force and effect of a judgment duly rendered by a district court and docketed in the office of the clerk, and the county has the same remedies against the possessor or user as any other judgment creditor.

Amended by Chapter 143, 1997 General Session

59-5-101. Definitions.

As used in this part:

(1) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

(2) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(3) "Condensate" means those hydrocarbons, regardless of gravity, that occur naturally in the gaseous phase in the reservoir that are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the wellbore, or at the surface in field separators.

(4) "Crude oil" means those hydrocarbons, regardless of gravity, that occur naturally in the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid form.

(5) "Development well" means any oil and gas producing well other than a wildcat well.

(6) "Division" means the Division of Oil, Gas, and Mining established under Title 40, Chapter 6.

(7) "Enhanced recovery project" means:

(a) the injection of liquids or hydrocarbon or nonhydrocarbon gases directly into a reservoir for the purpose of:

(i) augmenting reservoir energy;

(ii) modifying the properties of the fluids or gases in a reservoir; or

(iii) changing the reservoir conditions to increase the recoverable oil, gas, or oil and gas through the joint use of two or more well bores; and

(b) a project initially approved by the board as a new or expanded enhanced recovery project on or after January 1, 1996.

(8) (a) "Gas" means:
(i) natural gas;
(ii) natural gas liquids; or
(iii) any mixture of natural gas and natural gas liquids.
(b) "Gas" does not include solid hydrocarbons.
(9) "Incremental production" means that part of production, certified by the Division of Oil, Gas, and Mining, which is achieved from an enhanced recovery project that would not have economically occurred under the reservoir conditions existing before the project and that has been approved by the division as incremental production.
(10) "Natural gas" means those hydrocarbons, other than oil and other than natural gas liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and are produced and recovered at the wellhead in gaseous form.
(11) "Natural gas liquids" means those hydrocarbons initially in reservoir natural gas, regardless of gravity, that are separated in gas processing plants from the natural gas as liquids at the surface through the process of condensation, absorption, adsorption, or other methods.
(12) (a) "Oil" means:
(i) crude oil;
(ii) condensate; or
(iii) any mixture of crude oil and condensate.
(b) "Oil" does not include solid hydrocarbons.
(13) "Oil or gas field" means a geographical area overlying oil or gas structures. The boundaries of oil or gas fields shall conform with the boundaries as fixed by the Board and Division of Oil, Gas, and Mining under Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining.
(14) "Oil shale" means a group of fine black to dark brown shales containing bituminous material that yields petroleum upon distillation.
(15) "Operator" means any person engaged in the business of operating an oil or gas well, regardless of whether the person is:
(a) a working interest owner;
(b) an independent contractor; or
(c) acting in a capacity similar to Subsection (15)(a) or (b) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
(16) "Owner" means any person having a working interest, royalty interest, payment out of production, or any other interest in the oil or gas produced or extracted from an oil or gas well in the state, or in the proceeds of this production.
(17) (a) Subject to Subsections (17)(b) and (c), "processing costs" means the reasonable actual costs of processing oil or gas to remove:
(i) natural gas liquids; or
(ii) contaminants.
(b) If processing costs are determined on the basis of an arm's-length contract, processing costs are the actual costs.

(c) (i) If processing costs are determined on a basis other than an arm's-length contract, processing costs are those reasonable costs associated with:

(A) actual operating and maintenance expenses, including oil or gas used or consumed in processing;

(B) overhead directly attributable and allocable to the operation and maintenance; and

(C) (I) depreciation and a return on undepreciated capital investment; or

(II) a cost equal to a return on the investment in the processing facilities as determined by the commission.

(ii) Subsection (17)(c)(i) includes situations where the producer performs the processing for the producer's product.

(18) "Producer" means any working interest owner in any lands in any oil or gas field from which gas or oil is produced.

(19) "Recompletion" means any downhole operation that is:

(a) conducted to reestablish the producibility or serviceability of a well in any geologic interval; and

(b) approved by the division as a recompletion.

(20) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(21) "Royalty interest owner" means the owner of an interest in oil or gas, or in the proceeds of production from the oil or gas who does not have the obligation to share in the expenses of developing and operating the property.

(22) "Solid hydrocarbons" means:

(a) coal;

(b) gilsonite;

(c) ozocerite;

(d) elaterite;

(e) oil shale;

(f) tar sands; and

(g) all other hydrocarbon substances that occur naturally in solid form.

(23) "Stripper well" means:

(a) an oil well whose average daily production for the days the well has produced has been 20 barrels or less of crude oil a day during any consecutive 12-month period; or

(b) a gas well whose average daily production for the days the well has produced has been 60 MCF or less of natural gas a day during any consecutive 90-day period.

(24) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon and require further processing other than mechanical blending before becoming finished petroleum products.

(25) (a) Subject to Subsections (25)(b) and (c), "transportation costs" means the reasonable actual costs of transporting oil or gas products from the well to the point of sale.

(b) If transportation costs are determined on the basis of an arm's-length contract, transportation costs are the actual costs.

(c) (i) If transportation costs are determined on a basis other than an arm's-length contract, transportation costs are those reasonable costs associated with:

(A) actual operating and maintenance expenses, including fuel used or consumed in transporting the oil or gas;

(B) overhead costs directly attributable and allocable to the operation and maintenance; and

(C) depreciation and a return on undepreciated capital investment.

(ii) Subsection (25)(c)(i) includes situations where the producer performs the transportation for the producer's product.

(d) Regardless of whether transportation costs are determined on the basis of an arm's-length contract or a basis other than an arm's-length contract, transportation costs include:

(i) carbon dioxide removal;

(ii) compression;

(iii) dehydration;

(iv) gathering;

(v) separating;

(vi) treating; or

(vii) a process similar to Subsections (25)(d)(i) through (vi), as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(26) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

(27) "Well or wells" means any extractive means from which oil or gas is produced or extracted, located within an oil or gas field, and operated by one person.

(28) "Wildcat well" means an oil and gas producing well which is drilled and completed in a pool, as defined under Section 40-6-2, in which a well has not been previously completed as a well capable of producing in commercial quantities.

(29) "Working interest owner" means the owner of an interest in oil or gas burdened with a share of the expenses of developing and operating the property.

(30) (a) "Workover" means any downhole operation that is:

(i) conducted to sustain, restore, or increase the producibility or serviceability of a well in the geologic intervals in which the well is currently completed; and

(ii) approved by the division as a workover.

(b) "Workover" does not include operations that are conducted primarily as routine maintenance or to replace worn or damaged equipment.

Amended by Chapter 344, 2009 General Session

59-5-102. Severance tax -- Rate -- Computation -- Annual exemption -- Tax credit -- Tax rate reduction -- Study by Revenue and Taxation Interim Committee.

(1) (a) Subject to Subsection (1)(b), a person owning an interest in oil or gas produced from a well in the state, including a working interest, royalty interest, payment out of production, or any other interest, or in the proceeds of the production of oil or

gas, shall pay to the state a severance tax on the basis of the value determined under Section 59-5-103.1 of the oil or gas:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field where the substance was produced.

(b) This section applies to an interest in oil or gas produced from a well in the state or in the proceeds of the production of oil or gas produced from a well in the state except for:

(i) an interest of the United States in oil or gas or in the proceeds of the production of oil or gas;

(ii) an interest of the state or a political subdivision of the state in oil or gas or in the proceeds of the production of oil or gas; or

(iii) an interest of an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the proceeds of the production of oil or gas produced from land under the jurisdiction of the United States.

(2) (a) Subject to Subsection (2)(d), the severance tax rate for oil is as follows:

(i) 3% of the value of the oil up to and including the first $13 per barrel for oil; and

(ii) 5% of the value of the oil from $13.01 and above per barrel for oil.

(b) Subject to Subsection (2)(d), the severance tax rate for natural gas is as follows:

(i) 3% of the value of the natural gas up to and including the first $1.50 per MCF for gas; and

(ii) 5% of the value of the natural gas from $1.51 and above per MCF for gas.

(c) Subject to Subsection (2)(d), the severance tax rate for natural gas liquids is 4% of the value of the natural gas liquids.

(d) (i) On or before December 15, 2004, the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget shall prepare a revenue forecast estimating the amount of revenues that:

(A) would be generated by the taxes imposed by this part for the calendar year beginning on January 1, 2004 had 2004 General Session S.B. 191 not taken effect; and

(B) will be generated by the taxes imposed by this part for the calendar year beginning on January 1, 2004.

(ii) Effective on January 1, 2005, the tax rates described in Subsections (2)(a) through (c) shall be:

(A) increased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated under Subsection (2)(d)(i)(B) is less than the amount of revenues estimated under Subsection (2)(d)(i)(A); or

(B) decreased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated under Subsection (2)(d)(i)(B) is greater than the amount of revenues estimated under Subsection (2)(d)(i)(A).

(iii) For purposes of Subsection (2)(d)(ii):

(A) subject to Subsection (2)(d)(iv)(B):

(I) if an increase is required under Subsection (2)(d)(ii)(A), the total increase in the tax rates shall be by the amount necessary to generate for the calendar year beginning on January 1, 2005 revenues equal to the amount by which the revenues estimated under Subsection (2)(d)(i)(A) exceed the revenues estimated under Subsection (2)(d)(i)(B); or

(II) if a decrease is required under Subsection (2)(d)(ii)(B), the total decrease in the tax rates shall be by the amount necessary to reduce for the calendar year beginning on January 1, 2005 revenues equal to the amount by which the revenues estimated under Subsection (2)(d)(i)(B) exceed the revenues estimated under Subsection (2)(d)(i)(A); and

(B) an increase or decrease in each tax rate under Subsection (2)(d)(ii) shall be in proportion to the amount of revenues generated by each tax rate under this part for the calendar year beginning on January 1, 2003.

(iv) (A) The commission shall calculate any tax rate increase or decrease required by Subsection (2)(d)(ii) using the best information available to the commission.

(B) If the tax rates described in Subsections (2)(a) through (c) are increased or decreased as provided in this Subsection (2)(d), the commission shall mail a notice to each person required to file a return under this part stating the tax rate in effect on January 1, 2005 as a result of the increase or decrease.

(3) If oil or gas is shipped outside the state:

(a) the shipment constitutes a sale; and

(b) the oil or gas is subject to the tax imposed by this section.

(4) (a) Except as provided in Subsection (4)(b), if the oil or gas is stockpiled, the tax is not imposed until the oil or gas is:

(i) sold;

(ii) transported; or

(iii) delivered.

(b) Notwithstanding Subsection (4)(a), if oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax imposed by this section.

(5) A tax is not imposed under this section upon:

(a) stripper wells, unless the exemption prevents the severance tax from being treated as a deduction for federal tax purposes;

(b) the first 12 months of production for wildcat wells started after January 1, 1990; or

(c) the first six months of production for development wells started after January 1, 1990.

(6) (a) Subject to Subsections (6)(b) and (c), a working interest owner who pays for all or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit equal to 20% of the amount paid.

(b) The tax credit under Subsection (6)(a) for each recompletion or workover may not exceed $30,000 per well during each calendar year.

(c) If any amount of tax credit a taxpayer is allowed under this Subsection (6) exceeds the taxpayer's tax liability under this part for the calendar year for which the taxpayer claims the tax credit, the amount of tax credit exceeding the taxpayer's tax liability for the calendar year may be carried forward for the next three calendar years.

(7) A 50% reduction in the tax rate is imposed upon the incremental production achieved from an enhanced recovery project.

(8) The taxes imposed by this section are:

(a) in addition to all other taxes provided by law; and

(b) delinquent, unless otherwise deferred, on June 1 next succeeding the calendar year when the oil or gas is:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field.

(9) With respect to the tax imposed by this section on each owner of oil or gas or in the proceeds of the production of those substances produced in the state, each owner is liable for the tax in proportion to the owner's interest in the production or in the proceeds of the production.

(10) The tax imposed by this section shall be reported and paid by each producer that takes oil or gas in kind pursuant to agreement on behalf of the producer and on behalf of each owner entitled to participate in the oil or gas sold by the producer or transported by the producer from the field where the oil or gas is produced.

(11) Each producer shall deduct the tax imposed by this section from the amounts due to other owners for the production or the proceeds of the production.

(12) (a) The Revenue and Taxation Interim Committee shall review the applicability of the tax provided for in this chapter to coal-to-liquids, oil shale, and tar sands technology on or before the October 2011 interim meeting.

(b) The Revenue and Taxation Interim Committee shall address in its review the cost and benefit of not applying the tax provided for in this chapter to coal-to-liquids, oil shale, and tar sands technology.

(c) The Revenue and Taxation Interim Committee shall report its findings and recommendations under this Subsection (12) to the Legislative Management Committee on or before the November 2011 interim meeting.

Amended by Chapter 310, 2013 General Session

59-5-103.1. Valuation of oil or gas -- Deductions.

(1) (a) For purposes of the tax imposed under Section 59-5-102 and subject to Subsection (2), the value of oil or gas shall be determined at the first point closest to the well at which the fair market value for the oil or gas may be determined by:

(i) a sale pursuant to an arm's-length contract; or

(ii) for a sale other than a sale described in Subsection (1)(a)(i), comparison to other sales of oil or gas.

(b) For purposes of determining the fair market value of oil or gas under Subsection (1), a person subject to a tax under Section 59-5-102 may deduct:

(i) processing costs from the value of:

(A) oil; or

(B) gas; and

(ii) (A) except as provided in Subsection (1)(b)(ii)(B), transportation costs from

the value of:
(I) oil; and
(II) gas; and
(B) notwithstanding Subsection (1)(b)(ii)(A), the deduction for transportation costs may not exceed 50% of the value of the:
(I) oil; or
(II) gas.
(2) Subsection (1)(a)(ii) applies to a sale of oil or gas between:
(a) a parent company and a subsidiary company;
(b) companies wholly owned or partially owned by a common parent company; or
(c) companies otherwise affiliated.

Enacted by Chapter 244, 2004 General Session

59-5-104. Statements filed -- Contents -- Falsification as perjury.

(1) (a) Every producer engaged in the production of oil or gas from any well or wells in the state shall file with the commission, on or before June 1 of each year, on forms furnished by the commission, a statement containing the information required by Subsection (1)(b) relating to the oil or gas:
(i) produced; and
(ii) (A) saved;
(B) sold; or
(C) transported from the field where the oil or gas was produced during the preceding calendar year.
(b) The statement required in Subsection (1)(a) shall include:
(i) the name, description, and location of:
(A) every well or wells; and
(B) every field in which the well or wells are located;
(ii) the number of barrels of oil, the cubic feet of gas, and quantity of other hydrocarbon substances produced, including the percentage of production from lands held in trust by the United States for any federally recognized Indian tribe or its members;
(iii) the value of the oil or gas; and
(iv) any other reasonable and necessary information required by the commission.
(2) The statements or reports required to be filed with the commission shall be signed and sworn to by the producer or a designee.
(3) Any willful false swearing as to the purported material facts set out in this report constitutes the crime of perjury and shall be punished as such under Title 76, Utah Criminal Code.

Amended by Chapter 244, 2004 General Session

59-5-106. Interest and penalty -- Overpayments.

(1) In case of any failure to make or file a return required by this chapter, the penalty provided in Section 59-1-401 and interest at the rate and in the manner prescribed in Section 59-1-402 shall be charged and added to the tax. The amount so added to any tax, whether as a penalty, interest, or both, shall be collected at the same time and in the same manner and as a part of the tax.

(2) An overpayment of a tax imposed by this chapter shall accrue interest at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2

59-5-107. Date tax due -- Extensions -- Installment payments -- Penalty on delinquencies -- Audit.

(1) Except as provided in Subsections (2) and (3), the tax imposed by this part is due and payable on or before June 1 of the year next succeeding the calendar year when the oil or gas is:

(a) (i) produced;

(ii) saved; and

(iii) sold; or

(b) transported from the field where produced.

(2) (a) Notwithstanding Subsection (1), the commission may, for good cause shown upon a written application by the taxpayer, extend the time of payment of the whole or any part of the tax for a period not to exceed six months.

(b) If the commission allows an extension under Subsection (2)(a), interest at the rate and in the manner prescribed in Section 59-1-402 shall be charged and added to the amount of the tax allowed the extension.

(3) (a) A taxpayer subject to this part whose total tax obligation for the current calendar year will be $3,000 or more shall pay the taxes assessed under this part in quarterly installments as provided in Subsections (3)(b) and (4).

(b) For purposes of Subsection (3)(a), each quarterly installment shall be based on the estimated gross value received by the taxpayer during the quarter preceding the date on which the installment is due.

(4) For purposes of Subsection (3), the quarterly installments are due as follows:

(a) for the quarter beginning on January 1 and ending on March 31, on or before June 1;

(b) for the quarter beginning on April 1 and ending on June 30, on or before September 1;

(c) for the quarter beginning on July 1 and ending on September 30, on or before December 1; and

(d) for the quarter beginning on October 1 and ending on December 31, on or before March 1 of the next year.

(5) (a) Subject to Subsection (5)(b) and except as provided in Subsection (6), if the tax imposed by Section 59-5-102 is not paid when due or is underpaid, the taxpayer is subject to the penalty provided under Section 59-1-401.

(b) For purposes of Subsection (5)(a), an underpayment exists if less than 80%

of the tax due for a quarter is paid.

(6) Notwithstanding Subsection (5)(a), the penalty for failure to pay a tax due or for underpayment of a tax may not be assessed if the taxpayer's total quarterly tax installment payments equal 25% or more of the tax reported and paid by the taxpayer for the preceding calendar year.

(7) The commission may not add interest to any quarterly installment subject to a penalty under this section.

(8) The commission may conduct audits to determine whether any tax is owed under this part.

Amended by Chapter 274, 2003 General Session

59-5-108. Tax as lien on property or oil and gas production interests.

(1) The severance tax imposed by this chapter, together with penalties and interest, is and shall remain a lien upon the owner's interest in the oil or gas well or rights in the well from which the oil or gas is extracted, until the tax is paid.

(2) In the case of an owner who has no interest in the oil or gas well, but only in the proceeds of production from it, the lien is upon the oil or gas production rights or royalty interests in the well.

Amended by Chapter 4, 1988 General Session

59-5-109. Adjudicative proceedings for correction of amount of tax.

If any person feels aggrieved because of the amount of the severance tax determined by the commission, the person may file a request for agency action with the commission within 30 days after notice is mailed to the person, requesting an adjudicative proceeding and the correction of the assessed tax.

Repealed and Re-enacted by Chapter 4, 1988 General Session

59-5-110. Decisions of commission.

Every decision of the commission shall be in writing and notice of the decision shall be mailed to the taxpayer within 10 days. All decisions become final upon the expiration of 30 days after notice has been mailed to the taxpayer, unless proceedings are taken within such time for a review in accordance with Title 63G, Chapter 4, Administrative Procedures Act, in which case it becomes final as specified in the Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

59-5-111. Condition precedent to judicial review.

(1) Before seeking judicial review, the taxpayer shall deposit with the commission the full amount of taxes, interest, and other charges audited and stated in the decision of the commission.

(2) (a) If the party appealing executes an undertaking meeting the requirements

of Subsection (2)(b), the party is not required to pay the taxes, interest, and other charges as a condition precedent to obtaining judicial review.

(b) The taxpayer shall file an undertaking with the commission in the amount and with the surety approved by the commission.

(c) The undertaking shall provide that, if the appeal is dismissed or the decision of the commission is affirmed, the party appealing will pay all costs and charges that may accrue against the party in the prosecution of the case.

(d) At the option of the party appealing, the undertaking may be in a sum sufficient to cover the taxes, interest, and other charges, audited or stated in the decision, plus the costs or charges that may accrue against the party appealing in the prosecution of the case.

Repealed and Re-enacted by Chapter 4, 1988 General Session

59-5-114. Limitation of actions.

(1) (a) Except as provided in Subsections (1)(c) through (f), the commission shall assess the amount of taxes imposed under this part, and any penalties and interest, within six years after a taxpayer files a return.

(b) Except as provided in Subsections (1)(c) through (f), if the commission does not make an assessment under Subsection (1)(a) within six years, the commission may not commence a proceeding for the collection of the taxes after the expiration of the six-year period.

(c) Notwithstanding Subsections (1)(a) and (b), the commission may make an assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:

(i) fraud; or

(ii) failure to file a return.

(d) Notwithstanding Subsections (1)(a) and (b), beginning on July 1, 1998, the commission may extend the period to make an assessment or to commence a proceeding to collect the tax under this part if:

(i) the six-year period under this Subsection (1) has not expired; and

(ii) the commission and the taxpayer sign a written agreement:

(A) authorizing the extension; and

(B) providing for the length of the extension.

(e) If the commission delays an audit at the request of a taxpayer, the commission may make an assessment as provided in Subsection (1)(f) if:

(i) the taxpayer subsequently refuses to agree to an extension request by the commission; and

(ii) the six-year period under this Subsection (1) expires before the commission completes the audit.

(f) An assessment under Subsection (1)(e) shall be:

(i) for the time period for which the commission could not make an assessment because of the expiration of the six-year period; and

(ii) in an amount equal to the difference between:

(A) the commission's estimate of the amount of taxes the taxpayer would have

been assessed for the time period described in Subsection (1)(f)(i); and

(B) the amount of taxes the taxpayer actually paid for the time period described in Subsection (1)(f)(i).

(2)(a) Except as provided in Subsection (2)(b), the commission may not make a credit or refund unless the taxpayer files a claim with the commission within six years of the date of overpayment.

(b) Notwithstanding Subsection (2)(a), beginning on July 1, 1998, the commission shall extend the period for a taxpayer to file a claim under Subsection (2)(a) if:

(i) the six-year period under Subsection (2)(a) has not expired; and

(ii) the commission and the taxpayer sign a written agreement:

(A) authorizing the extension; and

(B) providing for the length of the extension.

Amended by Chapter 299, 1998 General Session

59-5-115. Disposition of taxes collected -- Credit to General Fund.

Except as provided in Section 51-9-305, 59-5-116, or 59-5-119, a tax imposed and collected under Section 59-5-102 shall be paid to the commission, promptly remitted to the state treasurer, and credited to the General Fund.

Amended by Chapter 241, 2014 General Session

59-5-116. Disposition of certain taxes collected on Ute Indian land.

(1) Except as provided in Subsection (2), there shall be deposited into the Uintah Basin Revitalization Fund established in Section 35A-8-1602:

(a) for taxes imposed under this part, 33% of the taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or before June 30, 1995; and

(ii) attributable to interests:

(A) held in trust by the United States for the Tribe and its members; or

(B) on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948);

(b) for taxes imposed under this part, 80% of taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or after July 1, 1995; and

(ii) attributable to interests:

(A) held in trust by the United States for the Tribe and its members; or

(B) on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948); and

(c) for taxes imposed under this part, 80% of taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or after January 1, 2001; and

(ii) attributable to interests on lands conveyed to the tribe under the Ute-Moab Land Restoration Act, Pub. L. No. 106-398, Sec. 3303.

(2) (a) The maximum amount deposited in the Uintah Basin Revitalization Fund may not exceed:

(i) $3,000,000 in fiscal year 2005-06;
(ii) $5,000,000 in fiscal year 2006-07;
(iii) $6,000,000 in fiscal years 2007-08 and 2008-09; and
(iv) for fiscal years beginning with fiscal year 2009-10, the amount determined by the commission as described in Subsection (2)(b).
(b) (i) The commission shall increase or decrease the dollar amount described in Subsection (2)(a)(iii) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2008; and
(ii) after making an increase or decrease under Subsection (2)(b)(i), round the dollar amount to the nearest whole dollar.
(c) For purposes of this Subsection (2), "consumer price index" is as described in Section 1(f)(4), Internal Revenue Code, and defined in Section (1)(f)(5), Internal Revenue Code.
(d) Any amounts in excess of the maximum described in Subsection (2)(a) shall be credited as provided in Sections 51-9-305 and 59-5-115.

Amended by Chapter 241, 2014 General Session

59-5-119. Disposition of certain taxes collected on Navajo Nation land located in Utah.
(1) Except as provided in Subsection (2), there shall be deposited into the Navajo Revitalization Fund established in Section 35A-8-1704 for taxes imposed under this part beginning on July 1, 1997:
(a) 33% of the taxes collected on oil, gas, or other hydrocarbon substances produced from a well:
(i) for which production began on or before June 30, 1996; and
(ii) attributable to interests in Utah held in trust by the United States for the Navajo Nation and its members; and
(b) 80% of the taxes collected on oil, gas, or other hydrocarbon substances produced from a well:
(i) for which production began on or after July 1, 1996; and
(ii) attributable to interests in Utah held in trust by the United States for the Navajo Nation and its members.
(2) (a) The maximum amount deposited in the Navajo Revitalization Fund may not exceed:
(i) $2,000,000 in fiscal year 2006-07; and
(ii) $3,000,000 for fiscal years beginning with fiscal year 2007-08.
(b) Any amounts in excess of the maximum described in Subsection (2)(a) shall be credited as provided in Sections 51-9-305 and 59-5-115.

Amended by Chapter 241, 2014 General Session

59-5-120. Exemption.
Beginning on January 1, 2006 and ending on June 30, 2016, no severance tax

required by this chapter is imposed on oil and gas produced, saved, sold, or transported if the oil or gas produced, saved, sold, or transported is derived from:

(1) coal-to-liquids technology;
(2) oil shale; or
(3) tar sands.

Enacted by Chapter 346, 2006 General Session

59-5-201. Definitions.

As used in this part:

(1) (a) "Metalliferous minerals" includes any ore, metal, or other substance containing the following:

(i) aluminum;
(ii) antimony;
(iii) arsenic;
(iv) barium;
(v) beryllium;
(vi) bismuth;
(vii) boron;
(viii) cadmium;
(ix) calcium;
(x) cerium;
(xi) cesium;
(xii) chromium;
(xiii) cobalt;
(xiv) columbium;
(xv) copper;
(xvi) gallium;
(xvii) germanium;
(xviii) gold;
(xix) hafnium;
(xx) indium;
(xxi) iridium;
(xxii) iron;
(xxiii) lanthanum;
(xxiv) lead;
(xxv) lithium;
(xxvi) manganese;
(xxvii) mercury;
(xxviii) molybdenum;
(xxix) nickel;
(xxx) osmium;
(xxxi) palladium;
(xxxii) platinum;
(xxxiii) praseodymium;

(xxxiv) rare earth metals;
(xxxv) rhenium;
(xxxvi) rhodium;
(xxxvii) rubidium;
(xxxviii) ruthenium;
(xxxix) samarium;
(xl) scandium;
(xli) selenium;
(xlii) silicon;
(xliii) silver;
(xliv) sodium;
(xlv) strontium;
(xlvi) tantalum;
(xlvii) tellurium;
(xlviii) thallium;
(xlix) thorium;
(l) tin;
(li) titanium;
(lii) tungsten;
(liii) uranium;
(liv) vanadium;
(lv) yttrium;
(lvi) zinc; or
(lvii) zirconium.

(b) "Metalliferous minerals" does not include:
(i) chloride compounds or salts;
(ii) potash;
(iii) rock, sand, gravel, and stone products;
(iv) gypsum;
(v) sulfur or sulfuric acid;
(vi) gem stones;
(vii) ammonium nitrate;
(viii) carbon dioxide;
(ix) oil, gas, coal, and all carboniferous materials; or
(x) phosphate.

(2) "Mine" means an operation for extracting minerals and includes any deposit of valuable metalliferous minerals that are being extracted from a natural deposit, or a secondary source including tails, slag, waste dumps, or other similar secondary source, whether in solution or otherwise.

(3) "Mining" means the act, process, or work of extracting minerals from their natural occurring environment or from a mine, and transporting or moving those minerals to the point of processing, use, or sale. "Mining" includes the process of leaching minerals from their naturally occurring deposit.

(4) "Ore" means raw materials in their natural state or condition prior to beneficiation or processing, and includes mined raw materials extracted prior to further

processing. "Ore" includes any metalliferous material whose metal content is less than 15% and does not include any material whose metal content is 15% or greater.

Amended by Chapter 287, 1990 General Session

59-5-202. Severance tax -- Rate -- Computation -- Annual exemption.

(1) Every person engaged in the business of mining or extracting metalliferous minerals in this state shall pay to the state a severance tax equal to 2.6% of the taxable value of all metals or metalliferous minerals sold or otherwise disposed of.

(2) If the metals or metalliferous minerals are shipped outside the state, this constitutes a sale, and the finished metals or the recoverable units of finished metals from the metalliferous minerals shipped are subject to the severance tax. If the metals or metalliferous minerals are stockpiled, the tax is not applicable until they are sold or shipped out of state. For purposes of the tax imposed by this chapter, uranium concentrates shall be considered to be finished metals. The owner of the metals or metalliferous minerals that are stockpiled shall report to the commission annually, in a form acceptable to the commission, the amount of metalliferous minerals so stockpiled. Metals or metalliferous minerals that are stockpiled for more than two years, however, are subject to the severance tax.

(3) An annual exemption from the payment of the tax imposed by this chapter upon the first $50,000 in gross value of the metalliferous mineral is allowed to each mine.

(4) These taxes are in addition to all other taxes provided by law and are delinquent, unless otherwise deferred, on June 1 next succeeding the calendar year when the metalliferous mineral is produced and sold or delivered.

Amended by Chapter 295, 1990 General Session

59-5-203. Determining taxable value.

(1) Except as provided in Subsection (3), the basis for computing the gross proceeds, prior to those deductions or adjustments specified in this chapter, in determining the taxable value of the metals or metalliferous minerals sold or otherwise disposed of, in the order of priority, is as follows:

(a) If the metals or metalliferous mineral products are actually sold, the value of those metals or metalliferous mineral products shall be the gross amount the producer receives from that sale, provided that the metals or metalliferous mineral products are sold under a bona fide contract of sale between unaffiliated parties. In the case of a sale of uranium concentrates, gross proceeds shall be the gross amount the producer receives from the sale of processed uranium concentrate or "yellowcake," provided that the uranium concentrate is sold under a bona fide contract of sale between unaffiliated parties.

(b) If the metals or metalliferous mineral products are not actually sold but are shipped, transported, or delivered out of state, the gross proceeds shall be the multiple of the recoverable units of finished metals, or of the finished metals contained in the metalliferous minerals shipped, and the average daily price per unit of contained metals

as quoted by an established authority for market prices of metals for the period during which the tax imposed by this chapter is due. The established authority or authorities shall be designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) In the case of metals or metalliferous minerals not sold, but otherwise disposed of, for which there is no established authority for market prices of metals for the period during which the tax imposed by this chapter is due, gross proceeds is determined by allocating to the state the same proportion of the producer's total sales of metals or metalliferous minerals sold or otherwise disposed of as the producer's total Utah costs bear to the total costs associated with sale or disposal of the metal or metalliferous mineral.

(d) In the event of a sale of metals or metalliferous minerals between affiliated companies which is not a bona fide sale because the value received is not proportionate to the fair market value of the metals or metalliferous minerals or in the event that Subsection (1)(a), (b), or (c) are not applicable, the commission shall determine the value of such metals or metalliferous minerals in an equitable manner by reference to an objective standard as specified in a rule adopted in accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) For all metals except beryllium, the taxable value of the metalliferous mineral sold or otherwise disposed of is 30% of the gross proceeds received for the metals sold or otherwise disposed of by the producer of the metal.

(3) (a) Beginning on January 1, 1990, through December 31, 2004, for beryllium sold or otherwise disposed of, the taxable value is 20% of the gross proceeds received for the beryllium sold or otherwise disposed of by the producer.

(b) (i) Notwithstanding Subsection (1) or (4) and subject to Subsection (3)(b)(ii), beginning on January 1, 2005, the taxable value of beryllium sold or otherwise disposed of by the producer of the beryllium is equal to 125% of the direct mining costs incurred in mining the beryllium.

(ii) For an action or proceeding filed on or after January 1, 2005, if the taxable value of beryllium is calculated under Subsection (3)(a) for purposes of imposing a tax on beryllium under this part, the taxable value of beryllium calculated under Subsection (3)(a) may not exceed the taxable value of beryllium calculated under Subsection (3)(b)(i).

(4) Except as provided in Subsection (3), if the metalliferous mineral sold or otherwise disposed of is sold or shipped out of state in the form of ore, then the taxable value is 80% of the gross proceeds.

Amended by Chapter 382, 2008 General Session

59-5-204. Statements filed -- Contents -- Verification -- Falsification as perjury.

(1) Every person engaged in the business of mining or extracting metalliferous minerals shall make and file with the commission, on or before June 1 of each year on forms furnished by the commission, a statement containing:

(a) the name, description, and location of the mine owned and operated by the

person during the preceding calendar year;

(b) the number of tons of mineral mined during the preceding calendar year and the disposition of the mineral;

(c) the total amount received during the preceding calendar year from the sale of minerals; and

(d) such other reasonable and necessary information as the commission may require for the proper enforcement of this chapter as specified in a rule adopted under Title 63G, Chapter 3, the Administrative Rulemaking Act.

(2) The owner of the mine shall be responsible for the statement or report required by this section, but the principal lessee, contractor, or operator may, with the consent of the commission, report and pay the tax as agent for the owner. The owner shall be entitled to deduct and remit to the commission any tax chargeable upon the operations conducted by the lessees or other parties.

(3) The statements or reports required to be filed with the commission shall be signed and sworn to by the person required to file the statements or reports, by a partner if a partnership, or by the president, secretary, or managing officer, if a corporation. Any willful false swearing as to the purported material facts set out in this report constitutes the crime of perjury and shall be punished as such under Title 76, the Utah Criminal Code.

Amended by Chapter 382, 2008 General Session

59-5-206. Interest and penalty -- Overpayments.

(1) In case of any failure to make or file a return required by this chapter, the penalty provided in Section 59-1-401 and interest at the rate and in the manner prescribed in Section 59-1-402 shall be charged and added to the tax. The amount so added to any tax, whether as a penalty, interest, or both, shall be collected at the same time and in the same manner and as a part of the tax.

(2) An overpayment of a tax imposed by this chapter shall accrue interest at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2

59-5-207. Date tax due -- Extensions -- Installment payments -- Penalty on delinquencies -- Audit.

(1) The tax imposed by this chapter is due and payable on or before June 1 of the year next succeeding the calendar year when the mineral is produced and sold or delivered.

(2) The commission may, for good cause shown upon a written application by the taxpayer, extend the time of payment of the whole or any part of the tax for a period not to exceed six months. If an extension is granted, interest at the rate and in the manner prescribed in Section 59-1-402 shall be charged and added to the amount of the deferred payment of the tax.

(3) Every taxpayer subject to this chapter whose total tax obligation for the preceding calendar year was $3,000 or more shall pay the taxes assessed under this

chapter in quarterly installments. Each installment shall be based on the estimated gross value received by the taxpayer during the quarter preceding the date on which the installment is due.

(4) The quarterly installments are due as follows:

(a) for January 1 through March 31, on or before June 1;

(b) for April 1 through June 30, on or before September 1;

(c) for July 1 through September 30, on or before December 1; and

(d) for October 1 through December 31, on or before March 1 of the next year.

(5) (a) If the taxpayer fails to report and pay any tax when due, the taxpayer is subject to the penalties provided under Section 59-1-401, unless otherwise provided in Subsection (6).

(b) An underpayment exists if less than 80% of the tax due for a quarter is paid.

(6) The penalty for failure to pay the tax due or underpayment of tax may not be assessed if the taxpayer's quarterly tax installment payment equals 25% of the tax reported and paid by the taxpayer for the preceding taxable year.

(7) There shall be no interest added to any estimated tax payments subject to a penalty under this section.

(8) The commission may conduct audits to determine whether any tax is owed under this section.

Amended by Chapter 228, 1995 General Session

59-5-208. Tax as lien.

The tax imposed by this chapter, together with penalties and interest, is and shall remain a lien upon the mine or mining claim from which the mineral is extracted, until the tax is paid. In the case of unpatented claims or leases on unpatented ground, the lien shall be upon the mining rights.

Enacted by Chapter 4, 1988 General Session

59-5-209. Adjudicative proceedings for correction of amount of tax.

If any person feels aggrieved because of the amount of the tax determined by the commission, the person may file a request for agency action with the commission within 30 days after notice is mailed to the person, requesting an adjudicative proceeding and the correction of the assessed tax.

Enacted by Chapter 4, 1988 General Session

59-5-210. Decisions of commission.

Every decision of the commission shall be in writing and notice of the decision shall be mailed to the taxpayer within 10 days. All decisions become final upon the expiration of 30 days after notice has been mailed to the taxpayer, unless proceedings are taken within such time for a review in accordance with Title 63G, Chapter 4, Administrative Procedures Act, in which case it becomes final as specified in the Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

59-5-211. Condition precedent to judicial review.

(1) Before seeking judicial review, the taxpayer shall deposit with the commission the full amount of taxes, interest, and other charges audited and stated in the decision of the commission.

(2) (a) If the party appealing executes an undertaking meeting the requirements of Subsection (2)(b), the party is not required to pay the taxes, interest, and other charges as a condition precedent to obtaining judicial review.

(b) The undertaking shall be filed with the commission in the amount and with the surety approved by the commission.

(c) The undertaking shall provide that, if the appeal is dismissed or the decision of the commission is affirmed, the party appealing will pay all costs and charges that may accrue against the party in the prosecution of the case.

(d) At the option of the party appealing, the undertaking may be in a sum sufficient to cover the taxes, interest, and other charges, audited or stated in the decision, plus the costs or charges that may accrue against the party appealing in the prosecution of the case.

Enacted by Chapter 4, 1988 General Session

59-5-215. Disposition of taxes collected -- Credit to General Fund.

Except as provided in Section 51-9-305, a tax imposed and collected under Section 59-5-202 shall be paid to the commission, promptly remitted to the state treasurer, and credited to the General Fund.

Amended by Chapter 241, 2014 General Session

59-6-101. Definitions.

As used in this chapter:

(1) "Business entity" means a claimant that is a:

(a) C corporation;

(b) S corporation;

(c) general partnership;

(d) limited liability company;

(e) limited liability partnership;

(f) limited partnership; or

(g) business entity similar to Subsections (1)(c) through (f):

(i) with respect to which the business entity's income or losses are divided among and passed through to taxpayers; and

(ii) as defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection (2)(b), "claimant" means a resident or nonresident person.

(b) "Claimant" does not include an estate or trust.
(3) "Estate" means a nonresident estate or a resident estate.
(4) "Minerals" means:
(a) metalliferous minerals as defined in Section 59-2-102;
(b) nonmetalliferous minerals as defined in Section 59-2-102; or
(c) a combination of Subsections (4)(a) and (b).
(5) "Producer" means a person that:
(a) produces or extracts minerals from deposits in this state; or
(b) is the first purchaser of minerals produced or extracted from deposits in this state.
(6) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or trust may claim:
(a) as provided by statute; and
(b) regardless of whether the claimant, estate, or trust has a tax liability:
(i) for a tax imposed under:
(A) Chapter 7, Corporate Franchise and Income Taxes;
(B) Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; or
(C) Chapter 10, Individual Income Tax Act; and
(ii) for the taxable year for which the claimant, estate, or trust claims the tax credit.
(7) "Taxable year" means the taxable year of a claimant, estate, or trust under:
(a) Chapter 7, Corporate Franchise and Income Taxes;
(b) Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; or
(c) Chapter 10, Individual Income Tax Act.
(8) "Tax return" means a return required by:
(a) Chapter 7, Corporate Franchise and Income Taxes;
(b) Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; or
(c) Chapter 10, Individual Income Tax Act.
(9) "Trust" means a nonresident trust or a resident trust.
(10) "Withholding return" means a return a producer is required to file under this chapter.

Amended by Chapter 255, 2008 General Session

59-6-102. Producer's obligation to deduct and withhold payments -- Amount -- Exempt payments -- Credit against tax.

(1) Except as provided in Subsection (2), each producer shall deduct and withhold from each payment being made to any person in respect to production of minerals in this state, but not including that to which the producer is entitled, an amount equal to 5% of the amount which would have otherwise been payable to the person entitled to the payment.
(2) The obligation to deduct and withhold from payments as provided in

Subsection (1) does not apply to those payments which are payable to:

(a) the United States, this state, or an agency or political subdivision of the United States or this state;

(b) an organization that is exempt from the taxes imposed by Chapter 7, Corporate Franchise and Income Taxes, in accordance with Subsection 59-7-102(1)(a);

(c) an Indian or Indian tribe if the amounts accruing are subject to the supervision of the United States or an agency of the United States; or

(d) a business entity that files an exemption certificate in accordance with Section 59-6-102.1.

(3) A claimant, estate, or trust that files a tax return with the commission may claim a refundable tax credit against the tax reflected on the tax return for the amount withheld by the producer under Subsection (1).

Amended by Chapter 255, 2008 General Session

59-6-102.1. Exemption certificate -- Penalties -- Limit on filing exemption certificate.

(1) For a taxable year, a business entity may file an exemption certificate claiming an exemption from the deduction and withholding requirements of this chapter if:

(a) for that taxable year, the business entity is required to file a tax return with the commission;

(b) for that taxable year, the business entity expects to claim a refund on a tax return of at least 75% of the amount that would otherwise be required to be deducted and withheld under this chapter; and

(c) regardless of whether the business entity sells or otherwise disposes of the business entity's interest in the production of minerals, the business entity consents to the jurisdiction of the commission to enforce:

(i) an amount required to be deducted and withheld under this chapter; or

(ii) a penalty imposed under this chapter.

(2) A business entity filing an exemption certificate in accordance with Subsection (1) shall file the exemption certificate:

(a) with the:

(i) producer; and

(ii) commission; and

(b) on a form prescribed by the commission.

(3) (a) In addition to any other penalty provided by law, a business entity is subject to the penalty described in Subsection (3)(b) if the business entity:

(i) files an exemption certificate in accordance with this section; and

(ii) does not file a tax return with the commission for the taxable year for which the business entity files the exemption certificate described in Subsection (3)(a)(i).

(b) For purposes of Subsection (3)(a), the penalty is 100% of the amount that the producer would have deducted and withheld under this chapter for the taxable year had the business entity not filed an exemption certificate under this section for that taxable year.

(c) The commission shall collect the penalty described in Subsection (3)(b).

(4) If a business entity is subject to the penalty described in Subsection (3), the business entity may not file an exemption certificate under this section for five taxable years beginning with the taxable year that the business entity is subject to the penalty described in Subsection (3).

(5) In addition to any other penalty provided by law, a business entity is subject to a penalty of 5% of the amount that a producer would otherwise be required to deduct and withhold under this chapter for the taxable year if:

(a) the business entity files an exemption certificate under this section for a taxable year; and

(b) had the business entity not filed the exemption certificate under this section for the taxable year, the business entity:

(i) would have been allowed to claim a refund on a tax return for the taxable year in an amount less than 75% of the amount required to be deducted and withheld under this chapter for the taxable year; or

(ii) would not have been allowed to claim a refundable tax credit under Section 59-6-102 for the taxable year.

Enacted by Chapter 255, 2008 General Session

59-6-103. Returns and payments required of producers.

(1) (a) Subject to Subsection (1)(b), a producer required to deduct and withhold an amount under this chapter shall file a withholding return with the commission:

(i) for the amounts required to be deducted and withheld under this chapter during the preceding calendar quarter; and

(ii) on a form prescribed by the commission.

(b) A withholding return described in Subsection (1)(a) is due on or before the last day of April, July, October, and January.

(c) A withholding return described in Subsection (1)(a) shall contain:

(i) the name and address of each person receiving a payment subject to the deduction and withholding requirements of this chapter for the calendar quarter for which the withholding return is filed;

(ii) for each person described in Subsection (1)(c)(i), the amount of payment the person would have received from the production of minerals:

(A) by the producer had the deduction and withholding required by this chapter not been made; and

(B) for the calendar quarter for which the withholding return is filed;

(iii) for each person described in Subsection (1)(c)(i), the amount of deduction and withholding under this chapter for the calendar quarter for which the withholding return is filed;

(iv) the name or description of the property from which the production of minerals occurs that results in a payment subject to deduction and withholding under this chapter; and

(v) for each person described in Subsection (1)(c)(i), the interest of the person in the production of minerals that results in a payment subject to deduction and

withholding under this chapter.

(2) (a) If a producer receives an exemption certificate filed in accordance with Section 59-6-102.1 from a business entity, the producer shall file a withholding return with the commission:

(i) on a form prescribed by the commission; and

(ii) on or before the January 31 following the last day of the taxable year for which the producer receives the exemption certificate from the business entity.

(b) The withholding return required by Subsection (2)(a) shall contain:

(i) the name and address of the business entity that files the exemption certificate in accordance with Section 59-6-102.1;

(ii) the amount of the payment made by the producer to the business entity that would have been subject to deduction and withholding under this chapter had the business entity not filed the exemption certificate in accordance with Section 59-6-102.1;

(iii) the name or description of the property from which the production of minerals occurs that would have resulted in a payment subject to deduction and withholding under this chapter had the business entity not filed the exemption certificate in accordance with Section 59-6-102.1; and

(iv) the interest of the business entity in the production of minerals that would have resulted in a payment subject to deduction and withholding under this chapter had the business entity not filed the exemption certificate in accordance with Section 59-6-102.1.

Amended by Chapter 255, 2008 General Session

59-6-104. Commission administration of chapter -- Rulemaking authority.

(1) To the extent the following are consistent with this chapter, the commission shall administer this chapter in accordance with:

(a) Chapter 1, General Taxation Policies; and

(b) Chapter 10, Part 4, Withholding of Tax.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules necessary to effectuate the purposes of this chapter.

Amended by Chapter 212, 2009 General Session

59-7-101. Definitions.

As used in this chapter:

(1) "Adjusted income" means unadjusted income as modified by Sections 59-7-105 and 59-7-106.

(2) (a) "Affiliated group" means one or more chains of corporations that are connected through stock ownership with a common parent corporation that meet the following requirements:

(i) at least 80% of the stock of each of the corporations in the group, excluding the common parent corporation, is owned by one or more of the other corporations in

the group; and

(ii) the common parent directly owns at least 80% of the stock of at least one of the corporations in the group.

(b) "Affiliated group" does not include corporations that are qualified to do business but are not otherwise doing business in this state.

(c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(3) "Apportionable income" means adjusted income less nonbusiness income net of related expenses, to the extent included in adjusted income.

(4) "Apportioned income" means apportionable income multiplied by the apportionment fraction as determined in Section 59-7-311.

(5) "Business income" is as defined in Section 59-7-302.

(6) (a) "Captive real estate investment trust" means a real estate investment trust if:

(i) the shares or beneficial interests of the real estate investment trust are not regularly traded on an established securities market; and

(ii) more than 50% of the voting power or value of the shares or beneficial interests of the real estate investment trust are directly, indirectly, or constructively:

(A) owned by a controlling entity of the real estate investment trust; or

(B) controlled by a controlling entity of the real estate investment trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(7) (a) "Common ownership" means the direct or indirect control or ownership of more than 50% of the outstanding voting stock of:

(i) a parent-subsidiary controlled group as defined in Section 1563, Internal Revenue Code, except that 50% shall be substituted for 80%;

(ii) a brother-sister controlled group as defined in Section 1563, Internal Revenue Code; or

(iii) three or more corporations each of which is a member of a group of corporations described in Subsection (2)(a)(i) or (ii), and one of which is:

(A) a common parent corporation included in a group of corporations described in Subsection (2)(a)(i); and

(B) included in a group of corporations described in Subsection (2)(a)(ii).

(b) Ownership of outstanding voting stock shall be determined by Section 1563, Internal Revenue Code.

(8) (a) "Controlling entity of a captive real estate investment trust" means an entity that:

(i) is treated as an association taxable as a corporation under the Internal Revenue Code;

(ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue Code; and

(iii) directly, indirectly, or constructively holds more than 50% of:

(A) the voting power of a captive real estate investment trust; or

(B) the value of the shares or beneficial interests of a captive real estate investment trust.

(b) "Controlling entity of a captive real estate investment trust" does not include:

(i) a real estate investment trust, except for a captive real estate investment trust;

(ii) a qualified real estate investment subsidiary described in Section 856(i), Internal Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real estate investment trust; or

(iii) a foreign real estate investment trust.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(9) "Corporate return" or "return" includes a combined report.

(10) "Corporation" includes:

(a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue Code; and

(b) other organizations that are taxed as corporations for federal income tax purposes under the Internal Revenue Code.

(11) "Dividend" means any distribution, including money or other type of property, made by a corporation to its shareholders out of its earnings or profits accumulated after December 31, 1930.

(12) (a) "Doing business" includes any transaction in the course of its business by a domestic corporation, or by a foreign corporation qualified to do or doing intrastate business in this state.

(b) Except as provided in Subsection 59-7-102(3), "doing business" includes:

(i) the right to do business through incorporation or qualification;

(ii) the owning, renting, or leasing of real or personal property within this state; and

(iii) the participation in joint ventures, working and operating agreements, the performance of which takes place in this state.

(13) "Domestic corporation" means a corporation that is incorporated or organized under the laws of this state.

(14) (a) "Farmers' cooperative" means an association, corporation, or other organization that is:

(i) (A) an association, corporation, or other organization of:

(I) farmers; or

(II) fruit growers; or

(B) an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection (14)(a)(i)(A); and

(ii) organized and operated on a cooperative basis to:

(A) (I) market the products of members of the cooperative or the products of other producers; and

(II) return to the members of the cooperative or other producers the proceeds of sales less necessary marketing expenses on the basis of the quantity of the products of a member or producer or the value of the products of a member or producer; or

(B) (I) purchase supplies and equipment for the use of members of the cooperative or other persons; and

(II) turn over the supplies and equipment described in Subsection

(14)(a)(ii)(B)(I) at actual costs plus necessary expenses to the members of the cooperative or other persons.

(b) (i) Subject to Subsection (14)(b)(ii), for purposes of this Subsection (14), the commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define:

(A) the terms:

(I) "member"; and

(II) "producer"; and

(B) what constitutes an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection (14)(a)(i)(A).

(ii) The rules made under this Subsection (14)(b) shall be consistent with the filing requirements under federal law for a farmers' cooperative.

(15) "Foreign corporation" means a corporation that is not incorporated or organized under the laws of this state.

(16) (a) "Foreign operating company" means a corporation if:

(i) the corporation is incorporated in the United States;

(ii) at least 80% of the corporation's business activity, as determined under Section 59-7-401, is conducted outside the United States; and

(iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions, the corporation has:

(A) at least $1,000,000 of payroll located outside the United States; and

(B) at least $2,000,000 of property located outside the United States.

(b) "Foreign operating company" does not include a corporation that qualifies for the Puerto Rico and possession tax credit as provided in Section 936, Internal Revenue Code.

(17) (a) "Foreign real estate investment trust" means:

(i) a business entity organized outside the laws of the United States if:

(A) at least 75% of the business entity's total asset value at the close of the business entity's taxable year is represented by:

(I) real estate assets, as defined in Section 856(c)(5)(B), Internal Revenue Code;

(II) cash or cash equivalents; or

(III) one or more securities issued or guaranteed by the United States;

(B) the business entity is:

(I) not subject to income taxation:

(Aa) on amounts distributed to the business entity's beneficial owners; and

(Bb) in the jurisdiction in which the business entity is organized; or

(II) exempt from income taxation on an entity level in the jurisdiction in which the business entity is organized;

(C) the business entity distributes at least 85% of the business entity's taxable income, as computed in the jurisdiction in which the business entity is organized, to the holders of the business entity's:

(I) shares or beneficial interests; and

(II) on an annual basis;

(D) (I) not more than 10% of the following is held directly, indirectly, or constructively by a single person:

(Aa) the voting power of the business entity; or

(Bb) the value of the shares or beneficial interests of the business entity; or

(II) the shares of the business entity are regularly traded on an established securities market; and

(E) the business entity is organized in a country that has a tax treaty with the United States; or

(ii) a listed Australian property trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining:

(i) "cash or cash equivalents";

(ii) "established securities market"; or

(iii) "listed Australian property trust."

(18) "Income" includes losses.

(19) "Internal Revenue Code" means Title 26 of the United States Code as effective during the year in which Utah taxable income is determined.

(20) "Nonbusiness income" is as defined in Section 59-7-302.

(21) "Real estate investment trust" is as defined in Section 856, Internal Revenue Code.

(22) "Related expenses" means:

(a) expenses directly attributable to nonbusiness income; and

(b) the portion of interest or other expense indirectly attributable to both nonbusiness and business income which bears the same ratio to the aggregate amount of such interest or other expense, determined without regard to this Subsection (22), as the average amount of the asset producing the nonbusiness income bears to the average amount of all assets of the taxpayer within the taxable year.

(23) "Safe harbor lease" means a lease that qualified as a safe harbor lease under Section 168, Internal Revenue Code.

(24) "S corporation" means an S corporation as defined in Section 1361, Internal Revenue Code.

(25) "State of the United States" includes any of the 50 states or the District of Columbia.

(26) (a) "Taxable year" means the calendar year or the fiscal year ending during such calendar year upon the basis of which the adjusted income is computed.

(b) In the case of a return made for a fractional part of a year under this chapter or under rules prescribed by the commission, "taxable year" includes the period for which such return is made.

(27) "Taxpayer" means any corporation subject to the tax imposed by this chapter.

(28) "Threshold level of business activity" means business activity in the United States equal to or greater than 20% of the corporation's total business activity as determined under Section 59-7-401.

(29) "Unadjusted income" means federal taxable income as determined on a separate return basis before intercompany eliminations as determined by the Internal

Revenue Code, before the net operating loss deduction and special deductions for dividends received.

(30) (a) "Unitary group" means a group of corporations that:

(i) are related through common ownership; and

(ii) by a preponderance of the evidence as determined by a court of competent jurisdiction or the commission, are economically interdependent with one another as demonstrated by the following factors:

(A) centralized management;

(B) functional integration; and

(C) economies of scale.

(b) "Unitary group" includes a captive real estate investment trust.

(c) "Unitary group" does not include an S corporation.

(31) "United States" includes the 50 states and the District of Columbia.

(32) "Utah net loss" means the current year Utah taxable income before Utah net loss deduction, if determined to be less than zero.

(33) "Utah net loss deduction" means the amount of Utah net losses from other taxable years that may be carried back or carried forward to the current taxable year in accordance with Section 59-7-110.

(34) (a) "Utah taxable income" means Utah taxable income before net loss deduction less Utah net loss deduction.

(b) "Utah taxable income" includes income from tangible or intangible property located or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign commerce.

(35) "Utah taxable income before net loss deduction" means apportioned income plus nonbusiness income allocable to Utah net of related expenses.

(36) (a) "Water's edge combined report" means a report combining the income and activities of:

(i) all members of a unitary group that are:

(A) corporations organized or incorporated in the United States, including those corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section 936, Internal Revenue Code, in accordance with Subsection (36)(b); and

(B) corporations organized or incorporated outside of the United States meeting the threshold level of business activity; and

(ii) an affiliated group electing to file a water's edge combined report under Subsection 59-7-402(2).

(b) There is a rebuttable presumption that a corporation which qualifies for the Puerto Rico and possession tax credit provided in Section 936, Internal Revenue Code, is part of a unitary group.

(37) "Worldwide combined report" means the combination of the income and activities of all members of a unitary group irrespective of the country in which the corporations are incorporated or conduct business activity.

Amended by Chapter 69, 2011 General Session

59-7-102 (Superseded 09/02/14). Exemptions.

(1) Except as provided in this section, the following are exempt from a tax under this chapter:

(a) an organization exempt under Section 501, Internal Revenue Code;

(b) an organization exempt under Section 528, Internal Revenue Code;

(c) an insurance company that is otherwise taxed on the insurance company's premiums under Chapter 9, Taxation of Admitted Insurers;

(d) a local building authority as defined in Section 17D-2-102;

(e) a farmers' cooperative; or

(f) a public agency, as defined in Section 11-13-103, with respect to or as a result of an ownership interest in:

(i) a project, as defined in Section 11-13-103; or

(ii) facilities providing additional project capacity, as defined in Section 11-13-103.

(2) A corporation is exempt from a tax under this chapter:

(a) if the corporation is an out-of-state business as defined in Section 53-2a-1202; and

(b) for income earned:

(i) during a disaster period as defined in Section 53-2a-1202; and

(ii) for the purpose of responding to a declared state disaster or emergency as defined in Section 53-2a-1202.

(3) Notwithstanding any other provision in this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, a person not otherwise subject to the tax imposed by this chapter or Chapter 8 is not subject to a tax imposed by Section 59-7-104, 59-7-201, 59-7-701, or 59-8-104, because of:

(a) that person's ownership of tangible personal property located at the premises of a printer's facility in this state with which the person has contracted for printing; or

(b) the activities of the person's employees or agents who are:

(i) located solely at the premises of a printer's facility; and

(ii) performing services:

(A) related to:

(I) quality control;

(II) distribution; or

(III) printing services; and

(B) performed by the printer's facility in this state with which the person has contracted for printing.

(4) Notwithstanding Subsection (1), an organization, company, authority, farmers' cooperative, or public agency exempt from this chapter under Subsection (1) is subject to Part 8, Unrelated Business Income, to the extent provided in Part 8.

(5) Notwithstanding Subsection (1)(b), to the extent the income of an organization described in Subsection (1)(b) is taxable for federal tax purposes under Section 528, Internal Revenue Code, the organization's income is also taxable under this chapter.

Amended by Chapter 376, 2014 General Session

59-7-103. Chapter applicable to receivers, trustees in bankruptcy and assignees.

Unless otherwise provided in this chapter, receivers, trustees in bankruptcy, and assignees for creditors required to make returns under this chapter shall be subject to the provisions of this chapter.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-104. Tax -- Minimum tax.

(1) Each domestic and foreign corporation, except those exempted under Section 59-7-102, shall pay an annual tax to the state based on its Utah taxable income for the taxable year for the privilege of exercising its corporate franchise or for the privilege of doing business in the state.

(2) The tax shall be 5% of a corporation's Utah taxable income.

(3) The minimum tax a corporation shall pay under this chapter is $100.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-105. Additions to unadjusted income.

In computing adjusted income the following amounts shall be added to unadjusted income:

(1) interest from bonds, notes, and other evidences of indebtedness issued by any state of the United States, including any agency and instrumentality of a state of the United States;

(2) the amount of any deduction taken on a corporation's federal return for taxes paid by a corporation:

(a) to Utah for taxes imposed by this chapter; and

(b) to another state of the United States, a foreign country, a United States possession, or the Commonwealth of Puerto Rico for taxes imposed for the privilege of doing business, or exercising its corporate franchise, including income, franchise, corporate stock and business and occupation taxes;

(3) the safe harbor lease adjustment required under Subsections 59-7-111(1)(a) and (2)(a);

(4) capital losses that have been deducted on a Utah corporate return in previous years;

(5) any deduction on the federal return that has been previously deducted on the Utah return;

(6) the amount of contributions claimed as a tax credit pursuant to Section 59-7-602;

(7) the amount of the deduction taken pursuant to Section 59-7-603 for sophisticated technological equipment;

(8) charitable contributions, to the extent deducted on the federal return when determining federal taxable income;

(9) the amount of gain or loss determined under Section 59-7-114 relating to a target corporation under Section 338, Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;

(10) the amount of gain or loss determined under Section 59-7-115 relating to corporations treated for federal purposes as having disposed of its assets under Section 336(e), Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;

(11) adjustments to gains, losses, depreciation expense, amortization expense, and similar items due to a difference between basis for federal purposes and basis as computed under Section 59-7-107;

(12) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a corporation that is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the corporation that is the account owner:

(a) is not expended for:

(i) higher education costs as defined in Section 53B-8a-102; or

(ii) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(b) is subtracted by the corporation:

(i) that is the account owner; and

(ii) in accordance with Subsection 59-7-106 (1)(r); and

(13) the amount of the deduction for dividends paid, as defined in Section 561, Internal Revenue Code, that is allowed under Section 857(b)(2)(B), Internal Revenue Code, in computing the taxable income of a captive real estate investment trust, if that captive real estate investment trust is subject to federal income taxation.

Amended by Chapter 6, 2010 General Session
Amended by Chapter 198, 2010 General Session

59-7-106. Subtractions from unadjusted income.

(1) In computing adjusted income the following amounts shall be subtracted from unadjusted income:

(a) the foreign dividend gross-up included in gross income for federal income tax purposes under Section 78, Internal Revenue Code;

(b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the taxpayer elects to deduct the net capital loss on the return filed under this chapter for the taxable year for which the net capital loss is incurred;

(c) the decrease in salary expense deduction for federal income tax purposes due to claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

(d) the decrease in qualified research and basic research expense deduction for federal income tax purposes due to claiming the federal credit for increasing research activities under Section 41, Internal Revenue Code;

(e) the decrease in qualified clinical testing expense deduction for federal

income tax purposes due to claiming the federal credit for clinical testing expenses for certain drugs for rare diseases or conditions under Section 45C, Internal Revenue Code;

(f) any decrease in any expense deduction for federal income tax purposes due to claiming any other federal credit;

(g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and (2)(b);

(h) any income on the federal corporation income tax return that has been previously taxed by Utah;

(i) an amount included in federal taxable income that is due to a refund of a tax, including a franchise tax, an income tax, a corporate stock and business tax, or an occupation tax:

(i) if that tax is imposed for the privilege of:

(A) doing business; or

(B) exercising a corporate franchise;

(ii) if that tax is paid by the corporation to:

(A) Utah;

(B) another state of the United States;

(C) a foreign country;

(D) a United States possession; or

(E) the Commonwealth of Puerto Rico; and

(iii) to the extent that tax was added to unadjusted income under Section 59-7-105;

(j) a charitable contribution, to the extent the charitable contribution is allowed as a subtraction under Section 59-7-109;

(k) subject to Subsection (3), 50% of a dividend considered to be received or received from a subsidiary that:

(i) is a member of the unitary group;

(ii) is organized or incorporated outside of the United States; and

(iii) is not included in a combined report under Section 59-7-402 or 59-7-403;

(l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a foreign operating company;

(m) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold or exchanged by a member of a selling consolidated group as defined in Section 338, Internal Revenue Code, if an election has been made in accordance with Section 338(h)(10), Internal Revenue Code;

(n) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal Revenue Code, has been made for federal purposes;

(o) subject to Subsection (5), an adjustment to the following due to a difference between basis for federal purposes and basis as computed under Section 59-7-107:

(i) an amortization expense;

(ii) a depreciation expense;

(iii) a gain;

(iv) a loss; or

(v) an item similar to Subsections (1)(o)(i) through (iv);

(p) an interest expense that is not deducted on a federal corporation income tax return under Section 265(b) or 291(e), Internal Revenue Code;

(q) 100% of dividends received from a subsidiary that is an insurance company if that subsidiary that is an insurance company is:

(i) exempt from this chapter under Subsection 59-7-102(1)(c); and

(ii) under common ownership;

(r) subject to Subsection 59-7-105(12), the amount of a qualified investment as defined in Section 53B-8a-102 that:

(i) a corporation that is an account owner as defined in Section 53B-8a-102 makes during the taxable year;

(ii) the corporation described in Subsection (1)(r)(i) does not deduct on a federal corporation income tax return; and

(iii) does not exceed the maximum amount of the qualified investment that may be subtracted from unadjusted income for a taxable year in accordance with Subsection 53B-8a-106(1);

(s) for purposes of income included in a combined report under Part 4, Combined Reporting, the entire amount of the dividends a member of a unitary group receives or is considered to receive from a captive real estate investment trust; and

(t) the increase in income for federal income tax purposes due to claiming a:

(i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or

(ii) qualified zone academy bond under Section 1397E, Internal Revenue Code.

(2) For purposes of Subsection (1)(b):

(a) the subtraction shall be made by claiming the subtraction on a return filed:

(i) under this chapter for the taxable year for which the net capital loss is incurred; and

(ii) by the due date of the return, including extensions; and

(b) a net capital loss for a taxable year shall be:

(i) subtracted for the taxable year for which the net capital loss is incurred; or

(ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue Code.

(3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a taxpayer shall first subtract from a dividend considered to be received or received an expense directly attributable to that dividend.

(b) For purposes of Subsection (3)(a), the amount of an interest expense that is considered to be directly attributable to a dividend is calculated by multiplying the interest expense by a fraction:

(i) the numerator of which is the taxpayer's average investment in the dividend paying subsidiaries; and

(ii) the denominator of which is the taxpayer's average total investment in assets.

(c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in determining income apportionable to this state, a portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) shall

be included in the combined report factors as provided in this Subsection (3)(c).

(ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be included in the combined report factors is calculated by multiplying each factor of the foreign subsidiary by a fraction:

(A) not to exceed 100%; and

(B) (I) the numerator of which is the amount of the dividend paid by the foreign subsidiary that is included in adjusted income; and

(II) the denominator of which is the current year earnings and profits of the foreign subsidiary as determined under the Internal Revenue Code.

(4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under Subsection (1)(l):

(i) if the taxpayer elects to file a worldwide combined report as provided in Section 59-7-403; or

(ii) for the following:

(A) income generated from intangible property; or

(B) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating company:

(i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

(ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a transaction that occurs between members of a unitary group.

(c) For purposes of the subtraction provided for in Subsection (1)(l), in determining income apportionable to this state, the factors for a foreign operating company shall be included in the combined report factors in the same percentages as the foreign operating company's adjusted income is included in the combined adjusted income.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes:

(i) income generated from intangible property; or

(ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax credit is claimed if:

(i) there is a reduction in federal basis for a federal tax credit; and

(ii) there is no corresponding tax credit allowed in this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an item similar to Subsections (1)(o)(i) through (iv).

Amended by Chapter 273, 2014 General Session

59-7-107. Basis.

(1) (a) For property acquired after December 31, 1993, basis shall be determined pursuant to the Internal Revenue Code without reference to Section 1502, Internal Revenue Code, or regulations promulgated under that section.

(b) Notwithstanding Subsection (1)(a), adjustments for basis in a combined report may be established by rules promulgated by the tax commission.

(2) For property acquired after December 31, 1930, but before January 1, 1994, basis shall be determined under Utah law in effect at the time the property was acquired.

(3) (a) Except as provided in Subsection (3)(c), the basis for determining the gain or loss from the sale or other disposition of property acquired before January 1, 1931, shall be:

(i) the cost of such property or in the case of property acquired by gift or transfer in trust, the fair market value of such property at the time of such acquisition; or

(ii) the fair market value of such property as of January 1, 1931, whichever is greater.

(b) In determining the fair market value of stock in a corporation as of January 1, 1931, due regard shall be given to the fair market value of the assets of the corporation as of that date.

(c) (i) In determining the basis for inventory acquired before January 1, 1931, if the property should have been included in the last inventory, the basis shall be the value of that property at the last inventory.

(ii) In determining the basis for bequests and devises acquired before January 1, 1931, if personal property was acquired by specific bequest, or if real property was acquired by general or specific devise, the basis shall be the fair market value of the property at the time of the death of the decedent. In all other cases if the property was acquired by will, the basis shall be the fair market value of the property at the time of the distribution to the taxpayer.

(iii) In determining the basis for property acquired before January 1, 1931, during affiliation in which a combined report is filed under either Section 59-7-402 or 59-7-403, the basis shall be determined in accordance with rules prescribed by the commission.

(4) If any property subject to taxation under this chapter was acquired before January 1, 1931, the basis of such property, if other than the fair market value as of January 1, 1931, shall be diminished in the amount of exhaustion, wear and tear, obsolescence, and depletion actually sustained before such date.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-108. Distributions by corporations.

(1) (a) For purposes of this chapter, a distribution is made out of earnings or profits to the extent of the earnings or profits, and from the most recently accumulated earnings or profits.

(b) (i) Subject to Subsection (1)(b)(ii), any earnings or profits accumulated or increase in value of property accrued before January 1, 1931, may be excluded from

taxable income after the earnings and profits accumulated after December 31, 1930 have been distributed.

(ii) A distribution described in Subsection (1)(b)(i) shall be applied against and reduce the basis of the stock.

(2) (a) Subject to Subsection (2)(b), if any distribution that is not in partial or complete liquidation is made by a corporation to its shareholders, is not out of increase in value of property accrued before January 1, 1931, and is not out of earnings or profits, the amount of the distribution shall be applied against and reduce the basis of the stock.

(b) If a distribution described in Subsection (2)(a) is in excess of the basis of the stock, the excess shall be treated as a gain from the sale or exchange of property.

Amended by Chapter 69, 2011 General Session

59-7-109. Charitable contributions.

(1) Except as provided in Subsection (2), a subtraction is allowed for charitable contributions made within the taxable year to organizations described in Section 170(c), Internal Revenue Code.

(2) The aggregate amount of charitable contributions deductible under this section may not exceed 10% of the taxpayer's apportionable income. The limitation imposed in this subsection shall be calculated on a combined basis in a combined report.

(3) Any charitable contribution made in a taxable year beginning on or after January 1, 1994, which is in excess of the amount allowed as a deduction under Subsection (2) may be carried over to the five succeeding taxable years in the same manner as allowed under federal law.

Amended by Chapter 311, 1995 General Session

59-7-110. Utah net losses -- Carryforwards and carrybacks -- Deduction.

(1) The amount of Utah net loss that shall be carried back or forward to offset income of another taxable year is determined as provided in this section.

(2) (a) Subject to the other provisions of this section, a Utah net loss from a taxable year beginning before January 1, 1994, shall be carried back three taxable years preceding the taxable year of the loss and any remaining loss shall be carried forward five taxable years following the taxable year of the loss.

(b) (i) Subject to the other provisions of this section, a Utah net loss from a taxable year beginning on or after January 1, 1994, may be carried back three taxable years preceding the taxable year of the loss and carried forward 15 taxable years following the taxable year of the loss.

(ii) If an election is made to forego the federal net operating loss carryback, a Utah net loss is not eligible to be carried back unless an election is made for state purposes.

(3) A Utah net loss shall be carried to the earliest eligible year for which the Utah taxable income before net loss deduction, minus Utah net losses from previous

years that were applied or required to be applied to offset income, is not less than zero.

(4) (a) Except as provided in Subsection (4)(b), the amount of Utah net loss that shall be carried to the year identified in Subsection (3) is the lesser of:

(i) the remaining Utah net loss after deduction of any amounts of the Utah net loss that were carried to previous years; or

(ii) the remaining Utah taxable income before net loss deduction of the year identified in Subsection (3) after deduction of Utah net losses from previous years that were carried or required to be carried to the year identified in Subsection (3).

(b) (i) The amount of Utah net loss carried back from a taxable year may not exceed $1,000,000 in Utah taxable income for each return filed under this chapter in a taxable year.

(ii) A Utah net loss in excess of $1,000,000 may be carried forward.

(iii) A remaining Utah net loss shall be available to be carried to one or more taxable years in accordance with this section.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of another corporation may not deduct any net loss incurred by the acquired corporation prior to the date of acquisition.

(ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of the state of incorporation.

(b) An acquired corporation may deduct the acquired corporation's net losses incurred before the date of acquisition against the acquired corporation's separate income as calculated under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or business substantially the same as that conducted before the acquisition.

(6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation that is acquired by a unitary group may deduct is calculated by:

(a) subject to Subsection (7):

(i) except as provided in Subsection (6)(a)(ii), calculating the sum of:

(A) an amount determined by dividing the average value of the acquired corporation's real and tangible personal property owned or rented and used in this state during the taxable year by the average value of all of the unitary group's real and tangible personal property owned or rented and used during the taxable year;

(B) an amount determined by dividing the total amount paid in this state during the taxable year by the acquired corporation for compensation by the total compensation paid everywhere by the unitary group during the taxable year; and

(C) an amount determined by:

(I) dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year; and

(II) (Aa) if the unitary group elects to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(2)(d), multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by two;

(Bb) if the unitary group is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(3)(a), multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by four; or

(Cc) if the unitary group is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(3)(b), multiplying the amount calculated under Subsection (6)(a)(i)(C)(I) by 10; or

(ii) if the unitary group is required to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(3)(c), calculating an amount determined by dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year;

(b) dividing the amount calculated under Subsection (6)(a) by the same denominator of the fraction the unitary group uses to apportion business income to this state:

(i) for that taxable year; and

(ii) in accordance with Section 59-7-311;

(c) multiplying the amount calculated under Subsection (6)(b) by the business income of the unitary group for the taxable year that is subject to apportionment under Section 59-7-311; and

(d) calculating the sum of:

(i) the amount calculated under Subsection (6)(c); and

(ii) the following amounts allocable to the acquired corporation for the taxable year:

(A) nonbusiness income allocable to this state; or

(B) nonbusiness loss allocable to this state.

(7) The amounts calculated under Subsection (6)(a) shall be derived in the same manner as those amounts are derived for purposes of apportioning the unitary group's business income before deducting the net loss, including a modification made in accordance with Section 59-7-320.

Amended by Chapter 155, 2010 General Session

59-7-111. Safe harbor lease provisions.

(1) (a) For purchasers or lessors of safe harbor leases, the following additions shall be made to unadjusted income:

(i) interest expense; and

(ii) depreciation claimed on safe harbor lease property.

(b) For purchasers or lessors of safe harbor leases, the following subtractions shall be made from unadjusted income:

(i) rental income; and

(ii) amortization of the purchase price of tax benefits.

(2) (a) For sellers or lessees of safe harbor leases the following additions shall be made from unadjusted income:

(i) the amount of gain on the sale of federal tax benefits; and

(ii) rental expense on safe harbor lease property.

(b) For sellers or lessees of safe harbor leases the following subtractions shall be made to unadjusted income:

(i) interest income; and

(ii) depreciation on safe harbor lease property.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-112. Installment sales.

(1) Except as provided in Subsections (2) and (3), installment sales shall be governed by Sections 453, 453A, and 453B, Internal Revenue Code.

(2) Installment sales entered into prior to January 1, 1994, shall be recognized as originally reported.

(3) If a corporation is no longer required to file a Utah corporate return, any taxes owed by that corporation on installment sales entered into by that corporation shall accelerate and be due on the corporation's last return filed in Utah.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-113. Allocation of income and deductions between several corporations controlled by same interests.

If two or more corporations (whether or not organized or doing business in this state, and whether or not affiliated) are owned or controlled directly or indirectly by the same interests, the commission is authorized to distribute, apportion, or allocate gross income or deductions between or among such corporations, if it determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such corporations.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-114. Section 338, Internal Revenue Code -- Elections.

(1) Transactions for which an election has been made or considered to be made for federal purposes under Section 338, Internal Revenue Code, shall be treated as provided in this section. An election is not available for state purposes unless an election is made or considered to be made for federal purposes.

(2) If an election is made or considered to be made for federal purposes under Section 338, Internal Revenue Code, other than under Subsection 338(h)(10):

(a) the target corporation shall file a separate entity one-day tax return for state purposes, as is required for federal purposes, and shall include in such return the gain or loss on the deemed sale of assets in its adjusted income;

(b) the gain or loss on the deemed sale of assets shall be apportioned to this state using the apportionment fraction of the target corporation calculated on a separate entity basis for the most recent preceding taxable year consisting of 180 days or more; and

(c) the due date of the one-day return shall be the same as the due date of the return which includes the taxable period of the target corporation which immediately precedes the one-day return.

(3) If an election is made for federal purposes under Subsection 338(h)(10), Internal Revenue Code, the following shall apply:

(a) if the target corporation is a member of a unitary group immediately preceding the acquisition date, the target corporation shall be included in a combined return to the extent of its income through the acquisition date, and the gain or loss on the deemed sale of assets shall be included in the combined income of the unitary group;

(b) if the target corporation is not a member of a unitary group immediately preceding the acquisition date, the target corporation shall file a short period return for the period ending on the acquisition date and shall include in such return the gain or loss on the deemed sale of assets in its adjusted income; and

(c) any gain or loss which is not recognized for federal purposes on stock sold or exchanged by a member of a selling consolidated group as defined in Section 338, Internal Revenue Code, may not be included in the adjusted income of the selling corporation.

(4) There is a rebuttable presumption that the gain or loss on the deemed sale of assets constitutes business income.

(5) The new basis of the target corporation's assets shall be determined under Section 338, Internal Revenue Code.

(6) The target corporation shall be treated as a new corporation as of the day after the acquisition date.

(7) The commission may prescribe such rules as necessary to provide for the equitable treatment of any transaction subject to Section 338, Internal Revenue Code.

Amended by Chapter 9, 2001 General Session

59-7-115. Section 336(e), Internal Revenue Code -- Elections.

(1) Transactions for which an election has been made for federal purposes under Section 336(e), Internal Revenue Code, shall be treated as provided in this section. An election is not available for state purposes unless an election is made for federal purposes.

(2) If an election is made under Section 336(e), Internal Revenue Code, the following shall apply:

(a) if the corporation is treated for federal purposes as having disposed of all of its assets and is a member of a unitary group immediately preceding the date of sale, the corporation shall be included in a combined return to the extent of its income through the date of sale, and the gain or loss on the deemed disposal of assets shall be included in the combined income of the unitary group;

(b) if the corporation is treated for federal purposes as having disposed of all of its assets and is not a member of a unitary group immediately preceding the date of sale, the corporation shall file a short period return for the period ending on the date of sale and shall include in such return the gain or loss on the deemed disposal of assets in its adjusted income; and

(c) any gain or loss which is not recognized for federal purposes on stock sold, exchanged, or distributed by a corporation pursuant to Section 336(e), Internal Revenue Code, may not be included in adjusted income.

(3) There is a rebuttable presumption that the gain or loss on the deemed

disposition of assets constitutes business income.

(4) The new basis of assets of the corporation which is treated as having disposed of its assets shall be the same as determined for federal purposes.

(5) The corporation which is treated as having disposed of its assets shall be treated as a new corporation as of the day after the date of sale.

(6) The commission may prescribe such rules as necessary to provide for the equitable treatment of any transaction subject to Section 336(e), Internal Revenue Code.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-116. Taxation of regulated investment companies.

(1) A regulated investment company or a fund of such a company, as defined in Sections 851(a) or 851(g), Internal Revenue Code, which is organized under the laws of Utah, shall determine Utah taxable income as follows:

(a) calculate investment company taxable income, as determined in Section 852(b)(2), Internal Revenue Code;

(b) add any municipal interest and the exclusion of net capital gain provided in Section 852(b)(2)(A), Internal Revenue Code; and

(c) subtract the deduction for the capital gain dividends and exempt interest dividends as defined in Sections 852(b)(3)(C) and 852(b)(5), Internal Revenue Code.

(2) A regulated investment company which is organized under the laws of Utah or a fund of such a company, shall be taxed at the same rate and in the same manner as a corporation as provided in this chapter.

Amended by Chapter 250, 2008 General Session

59-7-116.5. Real estate investment trusts.

(1) A real estate investment trust that is not a captive real estate investment trust shall be taxed on the same income taxed for federal purposes under the Internal Revenue Code.

(2) Any income taxable under this section shall be taxed at the same rate and in the same manner provided for in this chapter.

Amended by Chapter 389, 2008 General Session

59-7-117. Equitable adjustments.

The commission shall by rule prescribe for adjustments to Utah taxable income when, solely by reason of the enactment of this chapter, a taxpayer would otherwise receive or have received a double tax benefit or suffer or have suffered a double tax detriment. However, the commission may not make any adjustment pursuant to this section which will result in an increase or decrease of tax liability that is less than $25.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-201. Tax -- Minimum tax.

(1) There is imposed upon each corporation except those exempt under Section 59-7-102 for each taxable year, a tax upon its Utah taxable income derived from sources within this state other than income for any period which the corporation is required to include in its tax base under Section 59-7-104.

(2) The tax imposed by Subsection (1) shall be 5% of a corporation's Utah taxable income.

(3) In no case shall the tax be less than $100.

Amended by Chapter 169, 1993 General Session

59-7-203. Computation of Utah taxable income.

For purposes of the tax imposed by this part, Utah taxable income shall be determined in accordance with Part 1 of this chapter except that wherever the date December 31, 1930 appears, the date December 31, 1958 shall be substituted, and wherever the date January 1, 1931 appears, the date January 1, 1959 shall be substituted.

Amended by Chapter 169, 1993 General Session

59-7-204. Income attributed to sources within the state.

For the purposes of the tax imposed by this part, the portion of Utah taxable income derived from or attributable to sources within this state shall be determined in accordance with Parts 3 and 4 of this chapter.

Amended by Chapter 4, 1993 General Session
Amended by Chapter 169, 1993 General Session

59-7-205. Applicability of Parts 5 and 6 of chapter.

For purposes of the tax imposed by this part, Parts 5 and 6 of this chapter shall apply.

Amended by Chapter 169, 1993 General Session

59-7-206. Offsets against tax.

There shall be offset against the tax imposed by this part for any period the amount of any tax imposed on the taxpayer under Section 59-7-104 for the same period. In the event that taxes, interest, and penalties have been or shall be assessed against, paid by, or collected from a taxpayer under Section 59-7-201, which assessment, payment, or collection should have been made under Section 59-7-104, such taxes, interest, and penalties shall be considered as having been assessed, paid, or collected under Section 59-7-104 as of the dates they were made.

Amended by Chapter 169, 1993 General Session

59-7-207. Corporations becoming subject to tax -- Assessment under other sections.

If a corporation formerly subject to tax under Section 59-7-104 becomes subject to tax under this part, it shall file an information return for the income year in which the change occurs. The tax for the year in which the change occurs will be assessed under Section 59-7-104 and not under Section 59-7-201. For years subsequent to the year in which the change occurs, the tax will be assessed under Section 59-7-201.

Amended by Chapter 169, 1993 General Session

59-7-208. Provisions followed for purposes of tax collected.

For the purposes of the taxes collected under this part, and interest and penalties arising in connection therewith, the provisions of Section 59-7-532 shall be followed.

Amended by Chapter 169, 1993 General Session

59-7-302 (Superseded 01/01/15). Definitions -- Determination of when a taxpayer is considered to be a sales factor weighted taxpayer.

(1) As used in this part, unless the context otherwise requires:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline" is as defined in Section 59-2-102.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.

(d) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

(e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) (i) Except as provided in Subsection (1)(g)(ii), "mobile flight equipment" is as defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include:

(A) a spare engine; or

(B) tangible personal property described in Subsection 59-2-102(25) owned by an:

(I) air charter service; or

(II) air contract service.

(h) "Nonbusiness income" means all income other than business income.

(i) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

(j) "Sales" means all gross receipts of the taxpayer not allocated under Sections

59-7-306 through 59-7-310.

(k) Subject to Subsection (2), "sales factor weighted taxpayer" means:

(i) for a taxpayer that is not a unitary group, regardless of the number of economic activities the taxpayer performs, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:

(A) a NAICS code within NAICS Sector 21, Mining;

(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(C) a NAICS code within NAICS Sector 31-33, Manufacturing;

(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(E) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or

(F) a NAICS code within NAICS Sector 52, Finance and Insurance; or

(ii) for a taxpayer that is a unitary group, a taxpayer having greater than 50% of the taxpayer's total sales everywhere generated by economic activities performed by the taxpayer if the economic activities are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, except for:

(A) a NAICS code within NAICS Sector 21, Mining;

(B) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(C) a NAICS code within NAICS Sector 31-33, Manufacturing;

(D) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(E) a NAICS code within NAICS Sector 51, Information, except for NAICS Subsector 519, Other Information Services; or

(F) a NAICS code within NAICS Sector 52, Finance and Insurance.

(l) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(m) "Transportation revenue" means revenue an airline earns from:

(i) transporting a passenger or cargo; or

(ii) from miscellaneous sales of merchandise as part of providing transportation services.

(n) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:

(i) during the airline's tax period; and

(ii) from flight stages that originate or terminate in this state.

(2) The following apply to Subsection (1)(k):

(a) (i) Subject to the other provisions of this Subsection (2), a taxpayer shall for each taxable year determine whether the taxpayer is a sales factor weighted taxpayer.

(ii) A taxpayer shall make the determination required by Subsection (2)(a)(i) before the due date for filing the taxpayer's return under this chapter for the taxable

year, including extensions.

(iii) For purposes of making the determination required by Subsection (2)(a)(i), total sales everywhere include only the total sales everywhere:

(A) as determined in accordance with this part; and

(B) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a)(i).

(b) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term "economic activity" consistent with the use of the term "activity" in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

Amended by Chapter 398, 2014 General Session

59-7-303. Apportionable income.

(1) Any taxpayer having income from business activity which is taxable both within and without this state shall allocate and apportion its adjusted income as provided in this part.

(2) Any taxpayer having income solely from business activity taxable within this state shall allocate or apportion its entire adjusted income to this state.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-305. When taxable in another state.

For purposes of allocation and apportionment of income under this part, a taxpayer is taxable in another state if:

(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

Renumbered and Amended by Chapter 2, 1987 General Session

59-7-306. Allocation of certain nonbusiness income.

Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in Sections 59-7-307 through 59-7-310.

Renumbered and Amended by Chapter 2, 1987 General Session

59-7-307. Allocation of rents and royalties.

(1) To the extent that the following constitute nonbusiness income:

(a) net rents and royalties from real property located in this state are allocable to this state; and

(b) net rents and royalties from tangible personal property are allocable to this state:

(i) if and to the extent that the property is utilized in this state; or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(2) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

Amended by Chapter 83, 1994 General Session

59-7-308. Allocation of capital gains and losses.

To the extent that the following constitute nonbusiness income:

(1) capital gains and losses from sales of real property located in this state are allocable to this state;

(2) capital gains and losses from sales of tangible personal property are allocable to this state if:

(a) the property had a situs in this state at the time of the sale; or

(b) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs; and

(3) capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

Amended by Chapter 83, 1994 General Session

59-7-309. Allocation of interest and dividends.

To the extent they constitute nonbusiness income, interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

Amended by Chapter 83, 1994 General Session

59-7-310. Allocation of patent and copyright royalties.

(1) To the extent they constitute nonbusiness income, patent and copyright royalties are allocable to this state:

(a) if and to the extent that the patent or copyright is utilized by the payer in this state; or

(b) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

Amended by Chapter 83, 1994 General Session

59-7-311. Method of apportionment of business income.

(1) For a taxable year, all business income shall be apportioned to this state by multiplying the business income by a fraction calculated as provided in this section.

(2) (a) Subject to the other provisions of this part, for the taxable year that begins on or after January 1, 2010, but begins on or before December 31, 2010, a taxpayer, including a sales factor weighted taxpayer, shall elect to calculate the fraction for apportioning business income to this state under this section using:

(i) the method described in Subsection (2)(c); or

(ii) the method described in Subsection (2)(d).

(b) Subject to the other provisions of this part, for a taxable year that begins on or after January 1, 2011, a taxpayer, except for a sales factor weighted taxpayer, shall elect to calculate the fraction for apportioning business income to this state under this section using:

(i) the method described in Subsection (2)(c); or

(ii) the method described in Subsection (2)(d).

(c) For purposes of Subsection (2)(a) or (b), a taxpayer described in Subsection (2)(a) or (b) may elect to calculate the fraction for apportioning business income as follows:

(i) the numerator of the fraction is the sum of:

(A) the property factor as calculated under Section 59-7-312;

(B) the payroll factor as calculated under Section 59-7-315; and

(C) the sales factor as calculated under Section 59-7-317; and

(ii) the denominator of the fraction is three.

(d) For purposes of Subsection (2)(a) or (b), a taxpayer described in Subsection (2)(a) or (b) may elect to calculate the fraction for apportioning business income as follows:

(i) the numerator of the fraction is the sum of:

(A) the property factor as calculated under Section 59-7-312;

(B) the payroll factor as calculated under Section 59-7-315; and
(C) the product of:
(I) the sales factor as calculated under Section 59-7-317; and
(II) two; and
(ii) the denominator of the fraction is four.
(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for a taxpayer described in Subsection (2)(a) or (b) to make the election required by this Subsection (2).
(3) (a) Subject to the other provisions of this part, for the taxable year that begins on or after January 1, 2011, but begins on or before December 31, 2011, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state as follows:
(i) the numerator of the fraction is the sum of:
(A) the property factor as calculated under Section 59-7-312;
(B) the payroll factor as calculated under Section 59-7-315; and
(C) the product of:
(I) the sales factor as calculated under Section 59-7-317; and
(II) four; and
(ii) the denominator of the fraction is six.
(b) Subject to the other provisions of this part, for the taxable year that begins on or after January 1, 2012, but begins on or before December 31, 2012, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state as follows:
(i) the numerator of the fraction is the sum of:
(A) the property factor as calculated under Section 59-7-312;
(B) the payroll factor as calculated under Section 59-7-315; and
(C) the product of:
(I) the sales factor as calculated under Section 59-7-317; and
(II) 10; and
(ii) the denominator of the fraction is 12.
(c) Subject to the other provisions of this part, for a taxable year that begins on or after January 1, 2013, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state as follows:
(i) the numerator of the fraction is the sales factor as calculated under Section 59-7-317; and
(ii) the denominator of the fraction is one.
(4) If a taxpayer calculates the fraction for apportioning business income to this state using a method described in this section:
(a) the taxpayer shall determine the method for calculating the fraction for apportioning business income to this state under this section on or before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions; and
(b) the method described in Subsection (4)(a) is in effect for the time period:
(i) beginning on the first day of the taxpayer's taxable year for which the taxpayer makes the determination described in Subsection (4)(a); and

(ii) ends on the last day of the taxable year described in Subsection (4)(b)(i).

Amended by Chapter 155, 2010 General Session

59-7-312. Property factor for apportionment of business income -- Mobile flight equipment of an airline.

(1) Except as provided in Subsection (2), the property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(2) The average value of an airline's real and tangible personal property owned or rented and used in this state attributable to mobile flight equipment for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by determining the product of:

(a) the total average value of the airline's mobile flight equipment of the aircraft type owned or rented and used during the tax period; and

(b) a fraction, the numerator of which is the Utah revenue ton miles for the aircraft type and the denominator of which is the airline revenue ton miles for the aircraft type.

Amended by Chapter 283, 2008 General Session

59-7-313. Valuation of property for inclusion in property factor.

(1) Property owned by the taxpayer is valued at its original cost.

(2) Property rented by the taxpayer is valued at eight times the net annual rental rate.

(3) Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(4) Property owned or rented by an airline is valued as provided in this section, subject to the calculation required by Subsection 59-7-312(2).

Amended by Chapter 283, 2008 General Session

59-7-314. Averaging property values for inclusion in property factors.

(1) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period or averaging of monthly values during the tax period if monthly averaging more clearly reflects the average value of the taxpayer's property.

(2) The average value of property of an airline is valued as provided in this section, subject to the calculation required by Subsection 59-7-312(2).

Amended by Chapter 283, 2008 General Session

59-7-315. Payroll factor for apportionment of business income --

Compensation of flight personnel by an airline.

(1) Except as provided in Subsection (2), the payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

(2) The total amount paid in this state during the tax period by an airline for compensation attributable to the compensation of flight personnel for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by determining the product of:

(a) the total amount paid during the tax period by the airline to flight personnel for compensation for the aircraft type; and

(b) a fraction, the numerator of which is the Utah revenue ton miles for the aircraft type and the denominator of which is the airline revenue ton miles for the aircraft type.

Amended by Chapter 283, 2008 General Session

59-7-316. Determination of compensation for inclusion in payroll factor.

(1) Compensation is paid in this state if:

(a) the individual's service is performed entirely within the state;

(b) the individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(c) some of the service is performed in the state and:

(i) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or

(ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(2) Whether compensation paid by an airline is paid in this state is determined as provided in this section, subject to the calculation required by Subsection 59-7-315(2).

Amended by Chapter 283, 2008 General Session

59-7-317. Sales factor for apportionment of business income -- Transportation revenues of an airline.

(1) Except as provided in Subsection (2), the sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

(2) The total sales of an airline in this state during the tax period attributable to transportation revenues in this state during the tax period for purposes of the numerator of the fraction described in Subsection (1) shall be calculated by determining the product of:

(a) the total transportation revenues during the tax period of the airline; and
(b) a fraction, the numerator of which is the Utah revenue ton miles and the denominator of which is the airline revenue ton miles.

Amended by Chapter 283, 2008 General Session

59-7-318. Sales of tangible personal property.
(1) Sales of tangible personal property are in this state if:
(a) the property is delivered or shipped to a purchaser, other than the United States Government, within this state regardless of the f.o.b. point or other conditions of the sale; or
(b) (i) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state; and
(ii) (A) the purchaser is the United States Government; or
(B) the taxpayer is not taxable in the state of the purchaser.
(2) Whether sales of tangible personal property by an airline are in this state is determined as provided in this section, subject to the calculation required by Subsection 59-7-317(2).

Amended by Chapter 283, 2008 General Session

59-7-319. Circumstances under which a receipt, rent, royalty, or sale is considered to be in this state.
(1) (a) Subject to Subsection (1)(b), as used in this section, "regulated investment company" is as defined in Section 851(a), Internal Revenue Code, in effect for the taxable year.
(b) "Regulated investment company" includes a trustee or sponsor of an employee benefit plan that has an account in a regulated investment company.
(2) The following are considered to be in this state:
(a) a rent in connection with:
(i) real property if the real property is in this state; or
(ii) tangible personal property if the tangible personal property is in this state;
(b) a royalty in connection with real property if the real property is in this state;
(c) a sale in connection with real property if the real property is in this state; or
(d) other income in connection with real property or tangible personal property if the real property or tangible personal property is in this state.
(3) (a) Subject to Subsection (3)(b), a receipt from the performance of a service is considered to be in this state if the purchaser of the service receives a greater benefit of the service in this state than in any other state.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule prescribe the circumstances under which a purchaser of a service receives a greater benefit of the service in this state than in any other state.
(4) (a) Subject to Subsection (4)(b), a receipt in connection with intangible property is considered to be in this state if the intangible property is used in this state.

(b) If the intangible property described in Subsection (4)(a) is used in this state and outside this state, a receipt in connection with the intangible property shall be apportioned to this state in accordance with Subsection (4)(c).

(c) For purposes of Subsection (4)(b), for a taxable year the percentage of a receipt in connection with intangible property that is considered to be in this state is the percentage of the use of the intangible property that occurs in this state during the taxable year.

(5) (a) Notwithstanding Subsections (2) through (4), a sale, other than a sale of tangible personal property, derived, directly or indirectly, from the sale of management, distribution, or administration services to, or on behalf of a regulated investment company, is considered to be in this state:

(i) to the extent that shareholders of the regulated investment company are domiciled in the state; and

(ii) as provided in this Subsection (5).

(b) For purposes of Subsection (5)(a), the amount of a sale, other than a sale of tangible personal property, that is considered to be in this state is calculated by determining the product of:

(i) the taxpayer's total dollar amount of sales of the services; and

(ii) a fraction, the numerator of which is the average of the sum of the beginning of the year and the end of year balance of shares owned by the investment company shareholders domiciled in this state and the denominator of which is the average of the sum of the beginning of the year and end of year balance of shares owned by the investment company shareholders.

(c) A separate computation shall be made to determine the sales for each investment company.

(6) (a) Notwithstanding Subsections (2) through (4) and subject to Subsection (6)(b), the following sales are considered to be in this state to the extent that customers of a securities brokerage business are domiciled in the state:

(i) a sale, other than a sale of tangible personal property, derived, directly or indirectly, from the sale of a securities brokerage service by a taxpayer if that taxpayer is primarily engaged in providing a service in this state to a regulated investment company; or

(ii) a sale, other than a sale of tangible personal property, derived, directly or indirectly, from the sale of a securities brokerage service by a taxpayer that is an affiliate of a taxpayer that provides a service in this state to a regulated investment company.

(b) For purposes of Subsection (6)(a), the amount of a sale, other than a sale of tangible personal property, that is considered to be in this state is calculated by determining the product of:

(i) the taxpayer's total dollar amount of sales of securities brokerage services; and

(ii) a fraction, the numerator of which is the receipts from securities brokerage services from customers of the taxpayer domiciled in this state, and the denominator of which is the receipts from securities brokerage services from all customers of the taxpayer.

(7) Whether sales by an airline, other than sales of tangible personal property, are in this state is determined as provided in this section, subject to the calculation required by Subsection 59-7-317(2).

Amended by Chapter 69, 2011 General Session

59-7-320. Equitable adjustment of standard allocation or apportionment.

Notwithstanding any other provision of this part, if the allocation and apportionment provisions of this part do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the commission may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) separate accounting;

(2) the exclusion of any one or more of the factors;

(3) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Amended by Chapter 225, 2005 General Session

59-7-321. Construction.

This part shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Renumbered and Amended by Chapter 2, 1987 General Session

59-7-401. Determining threshold level of business activity for corporations organized or incorporated outside of the United States.

(1) Except as provided in Subsection (2), in determining whether a corporation is a foreign operating company or has met the threshold level of business activity, business activity within and without the United States shall be measured by means of the factors ordinarily applicable under Sections 59-7-312 through 59-7-319.

(2) (a) Any taxpayer who would ordinarily be required to apportion business income in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions, shall use a two-factor formula of property and payroll.

(b) The results of the property and payroll factor computation shall be divided by two, or by one if either the property or payroll factor has a denominator of zero.

Amended by Chapter 225, 2005 General Session

59-7-402. Water's edge combined report.

(1) Except as provided in Section 59-7-403, if any corporation listed in Subsection 59-7-101(36)(a) is doing business in Utah, the unitary group shall file a water's edge combined report.

(2) (a) A group of corporations that are not otherwise a unitary group may elect

to file a water's edge combined report if each member of the group is:

(i) doing business in Utah;

(ii) part of the same affiliated group; and

(iii) qualified, under Section 1501, Internal Revenue Code, to file a federal consolidated return.

(b) Each corporation within the affiliated group that is doing business in Utah must consent to filing a combined report. If an affiliated group elects to file a combined report, each corporation within the affiliated group that is doing business in Utah must file a combined report.

(c) Corporations that elect to file a water's edge combined report under this section may not thereafter elect to file a separate return without the consent of the commission.

Amended by Chapter 312, 2009 General Session

59-7-403. Worldwide combined report.

(1) A unitary group may elect to file a worldwide combined report.

(2) Corporations electing to file a worldwide combined report may not thereafter elect to file a return on a basis other than a worldwide combined report without the consent of the commission.

Enacted by Chapter 169, 1993 General Session

59-7-404. Calculation of unadjusted income for combined reporting.

(1) A group filing a combined report under Section 59-7-402 or 59-7-403 shall calculate unadjusted income of the combined group by:

(a) computing unadjusted income on a separate return basis;

(b) combining income or loss of the members included in the combined report; and

(c) making appropriate eliminations and adjustments between members included in the combined report.

(2) For purposes of this section, if an entity does not calculate federal taxable income, then unadjusted income shall be calculated based on the applicable federal tax laws.

Amended by Chapter 83, 1994 General Session

59-7-404.5. Adjustment to apportionment factors for corporations in a combined report -- Sales factor -- Property factor.

For purposes of apportionment under Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions:

(1) corporations filing a combined report under Section 59-7-402 or 59-7-403 may not include intercompany sales or other intercompany transactions between the corporations included in the combined report in determining the sales factor;

(2) corporations filing a combined report under Section 59-7-402 or 59-7-403

may not include intercompany rents or other intercompany transactions between the corporations included in the combined report in determining the property factor; and

(3) the amounts of the numerators in this state of the property, payroll, and sales factors of an out-of-state business, as defined in Section 53-2a-1202, that are directly related to disaster- or emergency-related work, as defined in Section 53-2a-1202, during a disaster period, as defined in Section 53-2a-1202, may not be included in the apportionment fraction of the combined group.

Amended by Chapter 376, 2014 General Session

59-7-405. Commission empowered to make rules.

The commission shall prescribe such rules as necessary to reflect a corporation's tax liability and to prevent avoidance of corporate tax liability in accordance with the provisions of this part.

Enacted by Chapter 169, 1993 General Session

59-7-501. Accounting periods -- Methods of accounting.

(1) Utah taxable income shall be computed upon the basis of:

(a) the same taxable period used for federal income tax purposes;

(b) the corporation's annual accounting period if the corporation did not file a federal income tax return; or

(c) the calendar year if the corporation has an annual accounting period other than a fiscal year, has no annual accounting period, or does not keep books, and does not file a federal income tax return.

(2) (a) Utah taxable income shall be computed under the method of accounting on the basis of which the corporation computes:

(i) its income for federal income tax purposes; or

(ii) its income in keeping its books if the corporation did not file a federal income tax return.

(b) If no method of accounting has been regularly used by the corporation or if the method employed does not clearly reflect Utah taxable income computed and apportioned to this state for the taxable year, Utah taxable income shall be computed in accordance with a method which in the opinion of the commission clearly reflects Utah taxable income.

(3) If a corporation is required under Public Law 99-514, or successor statute, to change its method of accounting from the cash receipts and disbursements method to an accrual method or other permissible method, the transition period provision of Public Law 99-514, or successor statute, for taking into account the adjustments required by reasons of such change shall be followed.

(4) The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under the methods of accounting permitted under this section, any such amounts are to be properly accounted for as of a different period.

(5) The subtractions provided for in this chapter shall be taken for the taxable

year in which "paid or accrued" or "paid or incurred," dependent upon the method of accounting upon the basis of which Utah taxable income is computed, unless in order to clearly reflect the income the subtractions ought to be taken as of a different period.

(6) For purposes of Subsections (4) and (5), transition periods for reporting income or deductions permitted or required by Public Law 99-514, or successor statute, shall be followed.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-502. Change of taxable year or accounting period.

(1) If a corporation changes its taxable year for federal income tax purposes, the new taxable year shall become the corporation's taxable year for Utah corporate franchise or income tax purposes.

(2) If a corporation which does not file a federal tax return changes its accounting period, the new accounting period shall become the corporation's taxable year for Utah corporate franchise or income tax purposes if the change is approved by the commission.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-503. Return where period changed.

(1) If a corporation changes its taxable year in accordance with Section 59-7-502, a short period return shall be made for the period of less than 12 months between the close of the last taxable year for which a return was made and the close of the new taxable year.

(2) Where a short period return is made under Subsection (1) on account of a change in the accounting period, and in any other case where a short period return is required or permitted by rules prescribed by the commission to be made for a fractional part of a year, the tax shall be calculated at the rate provided in Section 59-7-104 for the period covered by the return assignable to business done in Utah.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-504. Estimated tax payments -- Penalty -- Waiver.

(1) Except as otherwise provided in this section, each corporation subject to taxation under this chapter having a tax liability of $3,000 or more in the current tax year, or which had a tax liability of $3,000 or more in the previous tax year, shall make payments of estimated tax at the same time and using any method provided under Section 6655, Internal Revenue Code.

(2) The following are modifications or exceptions to the provisions of Section 6655, Internal Revenue Code:

(a) for the first year a corporation is required to file a return in Utah, that corporation is not subject to Subsection (1) if it makes a payment on or before the due date of the return, without extensions, equal to or greater than the minimum tax required under Section 59-7-104 or 59-7-201;

(b) the applicable percentage of the required annual payment, as defined in Section 6655, Internal Revenue Code, for annualized income installments, adjusted seasonal installments, and those estimated tax payments based on the current year tax liability shall be:

Installment	Percentage
1st	22.5
2nd	45.0
3rd	67.5
4th	90.0

(c) large corporations shall be treated as any other corporation for purposes of this section; and

(d) if a taxpayer elects a different annualization period than the one used for federal purposes, the taxpayer shall make an election with the Tax Commission at the same time as provided under Section 6655, Internal Revenue Code.

(3) A penalty shall be added as provided in Section 59-1-401 for any quarterly estimated tax payment which is not made in accordance with this section.

(4) There shall be no interest added to any estimated tax payments subject to a penalty under this section.

Amended by Chapter 311, 1995 General Session

59-7-505. Returns required -- When due -- Extension of time -- Exemption from filing.

(1) Each corporation subject to taxation under this chapter shall make a return, except that a group of corporations filing a combined report under Part 4 of this chapter shall file one combined report.

(a) The return shall be signed by a responsible officer of the corporation, the signature of whom need not be notarized but when signed shall be considered as made under oath.

(b) (i) In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, those receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns.

(ii) Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

(2) Returns shall be made on or before the 15th day of the fourth month following the close of the taxable year.

(3) (a) The commission shall allow a taxpayer an extension of time for filing returns.

(b) The extension under Subsection (3)(a) may not exceed six months.

(4) Each return shall be made to the commission.

(5) A corporation incorporated or qualified to do business in this state prior to January 1, 1973, is not liable for filing a return or paying tax measured by income for the taxable year in which it legally terminates its existence.

(6) A corporation incorporated or qualified to do business or which had its authority to do business reinstated on or after January 1, 1973, shall file a return and pay the tax measured by income for each period during which it had the right to do business in this state, and the return shall be filed and the tax paid within three months and 15 days after the close of this period.

(7) If a corporation terminates its existence under Section 16-10a-1401, no returns are required to be filed if a statement is furnished to the commission that no business has been conducted during that period.

(8) (a) A corporation commencing to do business in Utah after qualification or incorporation with the Division of Corporations and Commercial Code is not required to file a return for the period commencing with the date of incorporation or qualification and ending on the last day of the same month, if that corporation was not doing business in and received no income from sources in the state during such period.

(b) In determining whether a corporation comes within the provisions of this chapter, affidavits on behalf of the corporation that it did no business in and received no income from sources in Utah during such period shall be filed with the commission.

Amended by Chapter 332, 1997 General Session

59-7-507. Payment of tax.

(1) (a) If quarterly estimated payments are not made as provided in Section 59-7-504, the amount of tax imposed by this chapter shall be paid no later than the original due date of the return.

(b) If an extension of time is necessary for filing a return, as provided in Subsection 59-7-505(3) or Section 59-7-803, payment must be made no later than the original due date of the return in an amount equal to the lesser of:

(i) The greater of:

(A) 90% of the total tax reported on the return for the current taxable year; or

(B) 100% of the minimum tax described in Section 59-7-104; or

(ii) 100% of the total tax liability for the taxable year immediately preceding the current taxable year.

(c) If payment is not made as provided in Subsection (1)(b), the commission shall add an extension penalty as provided in Section 59-1-401, until the tax is paid during the period of extension.

(2) (a) At the request of the taxpayer, the commission may extend the time for payment of the amount determined as the tax by the taxpayer, or any part of that amount, for a period not to exceed six months from the date prescribed for the payment of the tax.

(b) For purposes of Subsection (2)(a), the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

Amended by Chapter 269, 2007 General Session

59-7-508. Audit of returns.

As soon as practicable after the return is filed the commission shall examine it and shall determine the correct amount of the tax.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-509. Failure to file return -- Penalty.

In case of any failure to make and file a return required by this chapter within the time prescribed by law or prescribed by the commission in pursuance of law, there shall be added to the amount required to be shown as tax on the return a penalty as provided in Section 59-1-401. The amounts so added to any tax shall be collected at the same time and in the same manner and as a part of the tax, unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-510. Deficiency -- Interest.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the commission, and shall be collected as a part of the tax at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2

59-7-511. Penalty added to underpayments.

A penalty shall be added to underpayments of tax as provided in Section 59-1-401.

Amended by Chapter 93, 1994 General Session

59-7-512. Addition to tax in case of nonpayment.

Where the entire amount determined by the taxpayer as the tax imposed by this chapter is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax interest upon such unpaid amount at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2

59-7-513. Interest when time for payment extended.

If the time for payment of the amount determined as the tax by the taxpayer is extended under the authority of Subsection 59-7-507(2), there shall be collected as a part of such amount interest at the rate prescribed in Section 59-1-402 from the date

when such payment should have been made, if no extension had been granted, until payment is received.

Amended by Chapter 1, 1993 Special Session 2

59-7-514. Extension of time to pay deficiency.

(1) Where it is shown to the satisfaction of the commission that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the taxpayer, the commission (except where the deficiency is due to negligence, to intentional disregard of rules, or to fraud with intent to evade tax) may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of six months.

(2) If an extension is granted, the commission may require the taxpayer to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties as the commission deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-515. Interest when deficiency extended.

(1) If the time for the payment of any part of a deficiency is extended, the commission shall collect as a part of the tax interest on the part of the deficiency (the time for payment of which is so extended) at the rate prescribed in Section 59-1-402 for the period of the extension, and shall collect no other interest on such part of the deficiency for such period.

(2) If the part of the deficiency (the time for payment of which is so extended) is not paid in accordance with the terms of the extension, the commission shall collect as a part of the tax interest on such unpaid amount at the rate prescribed in Section 59-1-402 for the period from the time fixed by the terms of the extension for its payment until it is paid, and shall collect no other interest on such unpaid amount for such period.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-519. Period of limitation for making assessments -- Change, correction, or amendment of federal income tax -- Duty of corporation to notify state -- Extensions.

(1) (a) Subject to the other provisions of this section, the amount of taxes imposed by this chapter shall be assessed within three years after a return is filed.

(b) After the expiration of the time period described in Subsection (1)(a), a proceeding in court may not be made without assessment for the collection of the taxes described in Subsection (1)(a).

(2) In the case of a deficiency attributable to the application of a net loss carryback, the deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net loss that results in the

carryback may be assessed.

(3) If the amount of federal taxable income for any year of any corporation as returned to the United States treasury department is changed or corrected by the commissioner of internal revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change of federal taxable income, a taxpayer shall:

(a) report the change or corrected net income within 90 days after the final determination of the change or correction as required to the commission; and

(b) concede the accuracy of the determination or state where the determination is erroneous.

(4) Any corporation filing an amended return with the United States treasury department shall also file, within 90 days after the corporation files the amended return with the United States treasury department, an amended return with the commission that contains the information the commission requires.

(5) If a corporation fails to report a change or correction by the commissioner of internal revenue, other officer of the United States, or other competent authority or fails to file an amended return, any deficiency resulting from the change or correction may be assessed and collected within three years after the change, correction, or amended return is reported to or filed with the federal government.

(6) If any corporation agrees with the commissioner of internal revenue for an extension, or a renewal of an extension, of the period for proposing and assessing deficiencies in federal income tax for any year, the period for sending a notice of proposed Utah tax deficiencies for that year is the later of:

(a) three years after the return is filed; or

(b) six months after the date of the expiration of the agreed period for assessing deficiencies in federal income tax.

(7) The extensions described in Section 59-1-1418 apply to this section.

Amended by Chapter 212, 2009 General Session

59-7-522. Overpayments.

(1) (a) Subject to Subsection (1)(b), a claim for credit or refund of an overpayment that is attributable to a Utah net loss carry back or carry forward shall be filed within three years from the due date of the return for the taxable year of the Utah net loss.

(b) The three-year period described in Subsection (1)(a) shall be extended by any extension of time provided in statute for filing the return described in Subsection (1)(a).

(2) If an overpayment relates to a change in or correction of federal taxable income described in Section 59-7-519, a credit may be allowed or a refund paid any time before the expiration of the period within which a deficiency may be assessed.

(3) The commission shall make a credit or refund within a 30-day period after the day on which a court's decision to require the commission to credit or refund the amount of an overpayment to a taxpayer is final.

Amended by Chapter 216, 2010 General Session

59-7-528. Failure to make return or supply information -- Penalty.

Each officer or employee of any corporation, who, without fraudulent intent, fails to make, render, sign, or verify any return, or to supply any information within the time required by or under the provisions of this chapter, shall be liable for a penalty as provided in Section 59-1-401, assessed and collected by the commission in the same manner as is provided in this chapter with regard to delinquent taxes.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-529. General violations and penalties.

(1) Each person who, without fraudulent intent, fails to make, render, sign, or verify any return, or to supply any information within the time required by or under the provisions of this chapter, is liable for a civil penalty as provided in Section 59-1-401 imposed, assessed, and collected by the commission in the same manner as provided by this chapter for delinquent taxes.

(2) It is unlawful for any person, with intent to evade any tax, to fail to timely remit the full amount of tax required by the provisions of this chapter. A violation of this section is punishable as provided in Section 59-1-401.

(3) Each person who knowingly or intentionally makes, renders, signs, or verifies any false or fraudulent return or statement or supplies any false or fraudulent information is guilty of a criminal violation as provided in Section 59-1-401.

(4) Each person who, with intent to evade any tax or any requirement of this chapter, fails to make, render, sign, or verify any return, or supply any information within the time required under the provisions of this chapter, is guilty of a criminal violation as provided in Section 59-1-401.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-530. Power to waive penalties or interest.

The commission may waive penalties or interest as provided in Section 59-1-401.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-531. Venue of offenses -- Evidence.

(1) The failure to do any act required by the provisions of this chapter shall be considered an act committed in part at the office of the commission.

(2) The certificate of the commission that a tax has not been paid, that a return has not been filed, or that information has not been supplied, as required by or under the provisions of this chapter, shall be prima facie evidence that such tax has not been paid, that such return has not been filed, or that such information has not been supplied.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-532. Revenue received by commission -- Deposit with state treasurer -- Distribution or crediting to Education Fund -- Refund claim payments.

(1) All revenue collected or received by the commission under this chapter shall be deposited daily with the state treasurer. Such revenue, subject to the refund provisions of this section, shall be periodically distributed or credited to the Education Fund.

(2) The commission shall from time to time certify to the state auditor the amount of any refund authorized by it, the amount of interest computed on it under the provisions of Section 59-7-533, from whom the tax to be refunded was collected, or by whom it was paid, and such refund claims shall be paid in order out of the funds first accruing to the Education Fund from the provisions of this section.

Amended by Chapter 122, 2007 General Session

59-7-533. Interest on overpayments.

Interest shall be allowed and paid upon any overpayment in respect of any tax imposed by this chapter at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2

59-7-534. Failure to pay tax -- Suspension or forfeiture of corporate rights.

(1) If a tax computed and levied under this chapter is not paid before 5 p.m. on the last day of the 11th month after the date of delinquency, the corporate powers, rights, and privileges of the delinquent taxpayer, if it is a domestic corporation, shall be suspended, and if a foreign corporation, it shall forfeit its rights to do intrastate business in this state.

(2) The commission shall transmit the name of each such corporation to the Division of Corporations and Commercial Code, which shall immediately record the same in such manner that it may be available to the public. This suspension or forfeiture shall become effective from the time such record is made, and the certificate of the Division of Corporations and Commercial Code shall be prima facie evidence of such suspension or forfeiture.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-535. Doing business after suspension or forfeiture of certain corporate powers, rights, and privileges -- Penalty.

(1) A person is guilty of a class B misdemeanor if:

(a) the person's corporate powers, rights, and privileges have been suspended in accordance with Section 59-7-534; and

(b) the person:

(i) attempts or purports to exercise any of the rights, privileges, or powers of a suspended domestic corporation; or

(ii) transacts or attempts to transact any intrastate business in this state in behalf of a forfeited foreign corporation.

(2) Jurisdiction of the offense shall be in any county in which any part of an action described in Subsection (1)(b) occurred.

(3) Any contract made in violation of this section is unenforceable by a corporation or person described in Subsection (1).

Amended by Chapter 120, 2013 General Session

59-7-536. Relief in case of suspension or forfeiture.

(1) (a) Any corporation which has suffered the suspension or forfeiture referred to in Section 59-7-534 may be relieved from that suspension or forfeiture by applying for that relief in writing, paying the tax and the interest and penalties for nonpayment of which the suspension or forfeiture occurred, and paying a reinstatement fee of $100. If the corporation has done business in this state during the period of such suspension, a tax shall be computed according to this chapter for each year in which the business was done, and the tax shall be added to the delinquency and penalties provided in this section. If the due date of any return required in this section has not passed, a return need not be filed until that due date.

(b) Application for revivor may be made by any stockholder or creditor of the corporation or by a majority of the surviving trustees or directors, and the same shall be filed with the Division of Corporations and Commercial Code. Upon payment to the commission of the taxes, penalties, and reinstatement fee provided for in this section, the Division of Corporations and Commercial Code shall issue a certificate of revivor, and the applicant shall be revived. The revivor shall be without prejudice to any action, defense, or right which has accrued by reason of the original suspension or forfeiture. The certificate of revivor is prima facie evidence of the revivor.

(2) If any corporation has adopted, subsequent to such suspension or forfeiture, any name so closely resembling the name of the reviving corporation as will tend to deceive, then the reviving corporation is entitled to a certificate of revivor pursuant to the terms of this section only upon adopting a new name, and in such case nothing in this section may be construed as permitting the reviving corporation to carry on any business under its former name. The reviving corporation may use its former name or may take the new name only upon filing an application for it with the Division of Corporations and Commercial Code, and upon the issuing of a certificate to such corporation by the Division of Corporations and Commercial Code, setting forth the right of such corporation to take such new name or use its former name as the case may be. The Division of Corporations and Commercial Code may not issue any certificate permitting any corporation to take or use the name of any corporation already organized in this state and which has not suffered a forfeiture, or take or use a name so closely resembling the name of any corporation already organized in this state as will tend to deceive.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-537. Confidentiality of information.

The confidentiality of returns and other information filed with the commission shall be governed by Section 59-1-403.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-601. Credit of interest income from state and federal securities.

(1) There shall be allowed as a credit against the tax an amount equal to 1% of the gross interest income included in state taxable income from:

(a) bonds, notes, or other evidences of indebtedness issued by the state and its agencies and instrumentalities, and bonds, notes, or other evidences of indebtedness of any political subdivision as described in Section 11-14-303; and

(b) stocks, notes, or obligations issued by, or guaranteed by the United States Government, or any of its agencies and instrumentalities as defined under federal law.

(2) Amounts otherwise qualifying for the credit, but not allowable because the credit exceeds the tax, may be carried back three years or may be carried forward five years as a credit against the tax. Such carryover credits shall be applied against the tax before the application of the credits earned in the current year and on a first-earned first-used basis.

Amended by Chapter 105, 2005 General Session

59-7-602. Credit for cash contributions to sheltered workshops.

(1) For tax years beginning January 1, 1983, and thereafter, in computing the tax due the state of Utah pursuant to Section 59-7-104, there shall be a tax credit allowed for cash contributions made within the taxable year to nonprofit rehabilitation sheltered workshop facilities for people with a disability operating in Utah which are certified by the Department of Human Services as a qualifying facility. The allowable credit is an amount equal to 50% of the aggregate amount of the cash contributions to qualifying rehabilitation facilities, but in no case shall the credit allowed exceed $1,000.

(2) If a taxpayer has subtracted an amount for cash contributions to a sheltered workshop when determining federal taxable income, that amount shall be added back under Section 59-7-105 before a credit may be taken under this section.

Amended by Chapter 366, 2011 General Session

59-7-603. Credit for sophisticated technological equipment donated to schools.

(1) A taxpayer subject to the corporate franchise provisions of Section 59-7-104 is entitled to a tax credit in an amount equal to 25% of the fair market value of high technology contributions to public education, not to exceed the basis of the property contributed. Fair market value shall not exceed the original cost of the property.

(2) As used in this section, "high technology contribution" means a contribution of tangible personal property subject to the following requirements:

(a) the property is a computer, sophisticated technological equipment, or other

apparatus intended for use with a computer to be used directly in the education of students;

(b) the contribution is to a public elementary, secondary, or accredited post-secondary school located in the state;

(c) the contribution is made not later than two years after the date its construction is substantially completed;

(d) the property is used exclusively by the donee;

(e) the property is not transferred by the donee in exchange for money, other property, or services; and

(f) the taxpayer receives a written statement from the donee signifying approval of the property and representing that its use and disposition will be in accordance with the provisions of this section.

(3) If a taxpayer has subtracted an amount for sophisticated technological equipment donated to schools when determining federal taxable income, that amount shall be added back under Section 59-7-105 before a credit may be taken under this section.

Enacted by Chapter 169, 1993 General Session

59-7-605 (Superseded 01/01/15). Definitions -- Cleaner burning fuels tax credit.

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in:

(i) bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6); or

(ii) for a new qualified plug-in electric drive motor vehicle, as defined in Section 30D, Internal Revenue Code, bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(b) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(c) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and

(B) as a result of the installation of conversion equipment on the motor vehicle, the motor vehicle has reduced emissions; or

(ii) special mobile equipment on which conversion equipment has been installed has reduced emissions.

(d) "Clean fuel grant" means a grant awarded under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment.

(e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).

(f) "OEM vehicle" has the same meaning as in Section 19-1-402.

(g) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(h) "Qualifying electric or hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas;

(iii) is fueled by:

(A) electricity only; or

(B) a combination of electricity and diesel fuel, gasoline, a mixture of gasoline and ethanol, or propane; and

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (1)(h)(iii).

(i) "Reduced emissions" means:

(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of the conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board;

(B) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or

(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board; or

(B) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(j) "Special mobile equipment":

(i) means any mobile equipment or vehicle that is not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For the taxable year beginning on or after January 1, 2014, but beginning on or before December 31, 2014, a taxpayer may claim a tax credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not

Required to Pay Corporate Franchise or Income Tax Act, in an amount equal to:

(a) $605 for the original purchase of a new qualifying electric or hybrid vehicle that is registered in this state;

(b) for the purchase of a vehicle fueled by natural gas that is registered in this state, the lesser of:

(i) $2,500; or

(ii) 35% of the purchase price of the vehicle;

(c) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in this state minus the amount of any clean fuel grant received, up to a maximum tax credit of $2,500 per motor vehicle, if the motor vehicle is to:

(i) be fueled by propane, natural gas, or electricity;

(ii) be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or

(iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

(d) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum tax credit of $1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i); or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed.

(3) A taxpayer shall provide proof of the purchase of an item for which a tax credit is allowed under this section by:

(a) providing proof to the board in the form the board requires by rule;

(b) receiving a written statement from the board acknowledging receipt of the proof; and

(c) retaining the written statement described in Subsection (3)(b).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the taxpayer;

(b) for the taxable year in which an item described in Subsection (2)(a) or (b) is purchased or conversion equipment described in Subsection (2)(c) or (d) is installed; and

(c) once per vehicle.

(5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(6) In accordance with any rules prescribed by the commission under Subsection (7), the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds $500,000.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (6).

Amended by Chapter 184, 2013 General Session

59-7-606. Tax credit -- Items using cleaner burning fuels.

(1) As used in this section, "board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(2) For taxable years beginning on or after January 1, 1992, but prior to January 1, 2003, there is allowed a tax credit against tax otherwise due under this chapter in an amount equal to 10%, up to a maximum of $50, of the total of both the purchase cost and installation services cost of each pellet burning stove, high mass wood stove, and solid fuel burning device purchased and installed that is certified by the federal Environmental Protection Agency in accordance with test procedures prescribed in 40 C.F.R. Sec. 60.534, including purchase cost and installation service cost of natural gas or propane free standing fireplaces or inserts, but not including fireplace logs.

(3) A taxpayer shall provide proof of the purchase of an item for which a tax credit is allowed under this section by:

(a) providing proof to the board in the form the board requires by rule;

(b) receiving a written statement from the board acknowledging receipt of the proof; and

(c) retaining the written statement described in Subsection (3)(b).

(4) The tax credit under this section is allowed only:

(a) against any Utah tax owed in the taxable year by the taxpayer; and

(b) for the taxable year in which the item is purchased for which the tax credit is claimed.

Amended by Chapter 198, 2003 General Session

59-7-607. Utah low-income housing tax credit.

(1) As used in this section:

(a) "Allocation certificate" means:

(i) the certificate prescribed by the commission and issued by the Utah Housing Corporation to each taxpayer that specifies the percentage of the annual federal low-income housing tax credit that each taxpayer may take as an annual credit against state income tax; or

(ii) a copy of the allocation certificate that the housing sponsor provides to the taxpayer.

(b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Federal low-income housing tax credit" means the tax credit under Section 42, Internal Revenue Code.

(d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership in the case of a partnership, a corporation in the case of an S corporation, or a limited liability company in the case of a limited liability company.

(e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

(f) "Special low-income housing tax credit certificate" means a certificate:

(i) prescribed by the commission;

(ii) that a housing sponsor issues to a taxpayer for a taxable year; and

(iii) that specifies the amount of tax credit a taxpayer may claim under this section if the taxpayer meets the requirements of this section.

(g) "Taxpayer" means a person that is allowed a tax credit in accordance with this section which is the corporation in the case of a C corporation, the partners in the case of a partnership, the shareholders in the case of an S corporation, and the members in the case of a limited liability company.

(2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a nonrefundable tax credit against taxes otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for taxpayers issued an allocation certificate.

(b) The tax credit shall be in an amount equal to the greater of the amount of:

(i) federal low-income housing tax credit to which the taxpayer is allowed during that year multiplied by the percentage specified in an allocation certificate issued by the Utah Housing Corporation; or

(ii) tax credit specified in the special low-income housing tax credit certificate that the housing sponsor issues to the taxpayer as provided in Subsection (2)(c).

(c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

(i) the total amount of low-income housing tax credit under this section that:

(A) a housing sponsor is allowed for a building; and

(B) all of the taxpayers may claim with respect to the building if the taxpayers meet the requirements of this section; and

(ii) the percentage of tax credit a taxpayer may claim:

(A) under this section if the taxpayer meets the requirements of this section; and

(B) as provided in the agreement between the taxpayer and the housing sponsor.

(d) (i) For the calendar year beginning on January 1, 1995, through the calendar year beginning on January 1, 2015, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(3) (a) By October 1, 1994, the Utah Housing Corporation shall determine

criteria and procedures for allocating the tax credit under this section and Section 59-10-1010 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in the residential housing development of which the building is a part;

(ii) the level of area median income being served by the development;

(iii) the need for the tax credit for the economic feasibility of the development; and

(iv) the extended period for which the development commits to remain as affordable housing.

(4) (a) The following may apply to the Utah Housing Corporation for a tax credit under this section:

(i) any housing sponsor that has received an allocation of the federal low-income housing tax credit; or

(ii) any applicant for an allocation of the federal low-income housing tax credit.

(b) The Utah Housing Corporation may not require fees for applications of the tax credit under this section in addition to those fees required for applications for the federal low-income housing tax credit.

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the Utah Housing Corporation.

(b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors by issuing an allocation certificate to qualifying housing sponsors.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed percentage of the federal low-income housing tax credit as determined by the Utah Housing Corporation.

(c) The percentage specified in an allocation certificate may not exceed 100% of the federal low-income housing tax credit.

(6) A housing sponsor shall provide a copy of the allocation certificate to each taxpayer that is issued a special low-income housing tax credit certificate.

(7) (a) A housing sponsor shall provide to the commission a list of:

(i) the taxpayers issued a special low-income housing tax credit certificate; and

(ii) for each taxpayer described in Subsection (7)(a)(i), the amount of tax credit listed on the special low-income housing tax credit certificate.

(b) A housing sponsor shall provide the list required by Subsection (7)(a):

(i) to the commission;

(ii) on a form provided by the commission; and

(iii) with the housing sponsor's tax return for each taxable year for which the housing sponsor issues a special low-income housing tax credit certificate described in this Subsection (7).

(8) (a) All elections made by the taxpayer pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a taxpayer is required to recapture a portion of any federal low-income housing tax credit, the taxpayer shall also be required to recapture a portion of any state tax credits authorized by this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing tax credit amount subject to recapture.

(9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the Utah Housing Corporation in any year may be carried over for allocation in the subsequent year.

(10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the tax credit exceeds the tax, may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

(i) before the application of the tax credits earned in the current year; and

(ii) on a first-earned first-used basis.

(11) Any tax credit taken in this section may be subject to an annual audit by the commission.

(12) The Utah Housing Corporation shall provide an annual report to the Revenue and Taxation Interim Committee which shall include at least:

(a) the purpose and effectiveness of the tax credits; and

(b) the benefits of the tax credits to the state.

(13) The commission may, in consultation with the Utah Housing Corporation, promulgate rules to implement this section.

Amended by Chapter 223, 2006 General Session

59-7-608. Targeted jobs tax credit.

(1) As used in this section, "individual with a disability" means an individual who:

(a) has been receiving services:

(i) from a day-training program that is:

(A) for persons with disabilities; and

(B) certified by the Department of Human Services as a qualifying program; and

(ii) for at least six consecutive months prior to working for the employer claiming the tax credit under this section; or

(b) is eligible for services from the Division of Services for People with Disabilities at the time the individual begins working for the employer claiming the tax credit under this section.

(2) For taxable years beginning on or after January 1, 1995, there is allowed a nonrefundable tax credit against tax otherwise due under this chapter for an employer that:

(a) meets the unemployment and workers' compensation requirements of Title

34A, Utah Labor Code; and

(b) hires an individual with a disability who:

(i) works in this state for at least 180 days in a taxable year for that employer; and

(ii) is paid at least minimum wages by that employer.

(3) The tax credit shall be in an amount equal to:

(a) 10% of the gross wages earned in the first 180 days of employment by the individual with a disability from the employer seeking the tax credit; and

(b) 20% of the gross wages earned in the remaining taxable year by the individual with a disability from the employer seeking the tax credit.

(4) The tax credit which may be taken by an employer under this section shall be:

(a) limited to $3,000 per year per individual with a disability; and

(b) allowed only for the first two years the individual with a disability is employed by the employer.

(5) Any amount of tax credit remaining may be carried forward two taxable years following the taxable year of the employment eligible for the tax credit provided in this section.

(6) (a) The Division of Services for People with Disabilities shall certify that an employer qualifies for the tax credit provided in this section on a form provided by the commission.

(b) The form described in Subsection (6)(a) shall include the name and Social Security number of the individual for whom the tax credit is claimed.

(c) The Division of Services for People with Disabilities shall provide the employer described in Subsection (6)(a) with a copy of the form described in this Subsection (6).

(d) The employer described in Subsection (6)(a) shall retain the form described in this Subsection (6).

Amended by Chapter 198, 2003 General Session

59-7-609. Historic preservation credit.

(1) (a) For tax years beginning January 1, 1993, and thereafter, there is allowed to a taxpayer subject to Section 59-7-104, as a credit against the tax due, an amount equal to 20% of qualified rehabilitation expenditures, costing more than $10,000, incurred in connection with any residential certified historic building. When qualifying expenditures of more than $10,000 are incurred, the credit allowed by this section shall apply to the full amount of expenditures.

(b) All rehabilitation work to which the credit may be applied shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can provide corrective comments to the taxpayer in order to preserve the historical qualities of the building.

(c) Any amount of credit remaining may be carried forward to each of the five taxable years following the qualified expenditures.

(d) The commission, in consultation with the Division of State History, shall promulgate rules to implement this section.

(2) As used in this section:

(a) "Certified historic building" means a building that is listed on the National Register of Historic Places within three years of taking the credit under this section or that is located in a National Register Historic District and the building has been designated by the Division of State History as being of significance to the district.

(b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to the rehabilitation and restoration of the physical elements of the building, including the historic decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing systems to applicable codes.

(ii) "Qualified rehabilitation expenditures" does not include expenditures related to:

(A) the taxpayer's personal labor;

(B) cost of acquisition of the property;

(C) any expenditure attributable to the enlargement of an existing building;

(D) rehabilitation of a certified historic building without the approval required in Subsection (1)(b); or

(E) any expenditure attributable to landscaping and other site features, outbuildings, garages, and related features.

(c) "Residential" means a building used for residential use, either owner occupied or income producing.

Enacted by Chapter 42, 1995 General Session

59-7-610. Recycling market development zones tax credit.

(1) For taxable years beginning on or after January 1, 1996, a business operating in a recycling market development zone as defined in Section 63M-1-1102 may claim a tax credit as provided in this section.

(a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

(A) commercial composting; or

(B) manufacturing facilities or plant units that:

(I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(II) reduce or reuse postconsumer waste material.

(ii) The Governor's Office of Economic Development shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:

(A) on a form provided by the commission; and

(B) before a taxpayer is allowed a tax credit under this section.

(iii) The Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

(iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the

form received under Subsection (1)(a)(iii).

(b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures up to $10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of $2,000.

(2) The total nonrefundable tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried over for credit against the business' income taxes in the three succeeding taxable years until the total tax credit amount is used.

(b) Tax credits not claimed by a business on the business' state income tax return within three years are forfeited.

(4) The commission shall make rules governing what information shall be filed with the commission to verify the entitlement to and amount of a tax credit.

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63M-1-413.

(b) For a taxable year other than a taxable year during which the taxpayer may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim or carry forward a tax credit described in Subsection (1)(a):

(i) if the taxpayer may claim or carry forward the tax credit in accordance with Subsections (1) and (2); and

(ii) subject to Subsections (3) and (4).

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63M-1-413.

(7) A taxpayer may not claim or carry forward a tax credit available under this section for a taxable year during which the taxpayer has claimed the targeted business income tax credit available under Section 63M-1-504.

Amended by Chapter 382, 2008 General Session

59-7-612. Tax credits for research activities conducted in the state -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

(1) (a) A taxpayer meeting the requirements of this section may claim the following nonrefundable tax credits:

(i) a research tax credit of 5% of the taxpayer's qualified research expenses for the current taxable year that exceed the base amount provided for under Subsection (4);

(ii) a tax credit for a payment to a qualified organization for basic research as

provided in Section 41(e), Internal Revenue Code, of 5% for the current taxable year that exceed the base amount provided for under Subsection (4); and

(iii) a tax credit equal to 7.5% of the taxpayer's qualified research expenses for the current taxable year.

(b) Subject to Subsection (5), a taxpayer may claim a tax credit under:

(i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the taxpayer incurs the qualified research expenses; or

(ii) Subsection (1)(a)(ii), for the taxable year for which the taxpayer makes the payment to the qualified organization.

(c) The tax credits provided for in this section do not include the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

(2) For purposes of claiming a tax credit under this section, a unitary group as defined in Section 59-7-101 is considered to be one taxpayer.

(3) Except as specifically provided for in this section:

(a) the tax credits authorized under Subsection (1) shall be calculated as provided in Section 41, Internal Revenue Code; and

(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the tax credits authorized under Subsection (1).

(4) For purposes of this section:

(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:

(i) the base amount does not include the calculation of the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code;

(ii) a taxpayer's gross receipts include only those gross receipts attributable to sources within this state as provided in Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions; and

(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the base amount, a taxpayer:

(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B) regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II); and

(B) may not revoke an election to be treated as a start-up company under Subsection (4)(a)(iii)(A);

(b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state;

(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state;

(d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal Revenue Code, except that the term includes only:

(i) in-house research expenses incurred in this state; and

(ii) contract research expenses incurred in this state; and

(e) a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

(5) (a) If the amount of a tax credit claimed by a taxpayer under Subsection (1)(a)(i) or (ii) exceeds the taxpayer's tax liability under this chapter for a taxable year,

the amount of the tax credit exceeding the tax liability:

(i) may be carried forward for a period that does not exceed the next 14 taxable years; and

(ii) may not be carried back to a taxable year preceding the current taxable year.

(b) A taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that amounts paid to the qualified organizations are for basic research conducted in this state.

(7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.

(8) (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (7) a modification or repeal of a provision of Section 41, Internal Revenue Code.

(b) Notwithstanding Subsection (8)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.

(c) The Revenue and Taxation Interim Committee shall address in a review under this section:

(i) the cost of the tax credits provided for in this section;

(ii) the purpose and effectiveness of the tax credits provided for in this section;

(iii) whether the tax credits provided for in this section benefit the state; and

(iv) whether the tax credits provided for in this section should be:

(A) continued;

(B) modified; or

(C) repealed.

(d) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall report its findings to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits.

Amended by Chapter 405, 2012 General Session

59-7-613. Tax credits for machinery, equipment, or both primarily used for conducting qualified research or basic research -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

(1) As used in this section:

(a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code,

except that the term includes only basic research conducted in this state.

(b) "Equipment" includes:

(i) a computer;

(ii) computer equipment; and

(iii) computer software.

(c) "Purchase price":

(i) includes the cost of installing an item of machinery or equipment; and

(ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an item of machinery or equipment.

(d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

(e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state.

(2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after January 1, 1999, but beginning before December 31, 2010, a taxpayer meeting the requirements of this section may claim the following nonrefundable tax credits:

(i) a tax credit of 6% of the purchase price of machinery, equipment, or both:

(A) purchased by the taxpayer during the taxable year;

(B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and

(C) that is primarily used to conduct qualified research in this state; and

(ii) a tax credit of 6% of the purchase price of machinery, equipment, or both:

(A) purchased by the taxpayer during the taxable year;

(B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;

(C) that is donated to a qualified organization; and

(D) that is primarily used to conduct basic research in this state.

(b) Subject to Subsection (5), a taxpayer may claim a tax credit under this section for the taxable year for which the taxpayer purchases the machinery, equipment, or both.

(c) If a taxpayer qualifies for a tax credit under Subsection (2)(a) for a purchase of machinery, equipment, or both, the taxpayer may not claim the tax credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to conduct qualified research in the state for a time period that is less than 12 consecutive months.

(3) For purposes of claiming a tax credit under this section, a unitary group as defined in Section 59-7-101 is considered to be one taxpayer.

(4) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

(5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

(a) may be carried forward for a period that does not exceed the next 14 taxable years; and

(b) may not be carried back to a taxable year preceding the current taxable year.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that machinery, equipment, or both provided to the qualified organization is to be primarily used to conduct basic research in this state.

(7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.

(8) (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (7) a modification or repeal of a provision of Section 41, Internal Revenue Code.

(b) Notwithstanding Subsection (8)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.

(c) The Revenue and Taxation Interim Committee shall address in a review under this section the:

(i) cost of the tax credits provided for in this section;

(ii) purpose and effectiveness of the tax credits provided for in this section;

(iii) whether the tax credits provided for in this section benefit the state; and

(iv) whether the tax credits provided for in this section should be:

(A) continued;

(B) modified; or

(C) repealed.

(d) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall report its findings to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits.

Amended by Chapter 384, 2011 General Session

59-7-614 (Superseded 01/01/15). Renewable energy systems tax credit -- Definitions -- Limitations -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment for use in converting material into biomass energy, as defined in Section 59-12-102, and transporting that energy by separate apparatus to the point of use or storage.

(c) "Business entity" means any sole proprietorship, estate, trust, partnership,

association, corporation, cooperative, or other entity under which business is conducted or transacted.

(d) "Commercial energy system" means any active solar, passive solar, geothermal electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(f) (i) "Commercial unit" means any building or structure that a business entity uses to transact its business.

(ii) Notwithstanding Subsection (1)(f)(i):

(A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(B) if an energy system is the building or structure that a business entity uses to transact its business, a commercial unit is the complete energy system itself.

(g) "Direct-use geothermal system" means a system of apparatus and equipment enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit, that is contained in the earth to meet energy needs, including heating a building, an industrial process, and aquaculture.

(h) "Geothermal electricity" means energy contained in heat that continuously flows outward from the earth that is used as a sole source of energy to produce electricity.

(i) "Geothermal heat-pump system" means a system of apparatus and equipment enabling the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit to help meet heating and cooling needs of a structure.

(j) "Hydroenergy system" means a system of apparatus and equipment capable of intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.

(k) "Individual taxpayer" means any person who is a taxpayer as defined in Section 59-10-103 and an individual as defined in Section 59-10-103.

(l) "Office" means the Office of Energy Development created in Section 63M-4-401.

(m) "Passive solar system":

(i) means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and

(ii) includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(n) "Residential energy system" means any active solar, passive solar, biomass, direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system

used to supply energy to or for any residential unit.

(o) "Residential unit" means any house, condominium, apartment, or similar dwelling unit that serves as a dwelling for a person, group of persons, or a family but does not include property subject to a fee under:

(i) Section 59-2-404;

(ii) Section 59-2-405;

(iii) Section 59-2-405.1;

(iv) Section 59-2-405.2; or

(v) Section 59-2-405.3.

(p) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) (a) (i) For taxable years beginning on or after January 1, 2007, a business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the business entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this Subsection (2)(a).

(ii) (A) A business entity is entitled to a tax credit equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit it owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(B) The total amount of each credit under this Subsection (2)(a) may not exceed $2,000 per residential unit.

(C) The credit under this Subsection (2)(a) is allowed for any residential energy system completed and placed in service on or after January 1, 2007.

(iii) If a business entity sells a residential unit to an individual taxpayer before making a claim for the tax credit under this Subsection (2)(a), the business entity may:

(A) assign its right to this tax credit to the individual taxpayer; and

(B) if the business entity assigns its right to the tax credit to an individual taxpayer under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the individual taxpayer had completed or participated in the costs of the residential energy system under Section 59-10-1014.

(b) (i) For taxable years beginning on or after January 1, 2007, a business entity that purchases or participates in the financing of a commercial energy system situated in Utah is entitled to a refundable tax credit as provided in this Subsection (2)(b) if the commercial energy system does not use wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity, and:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity is entitled to a tax credit of up to 10% of the reasonable costs of any commercial energy system installed, including installation costs, against

any tax due under this chapter for the taxable year in which the commercial energy system is completed and placed in service.

(B) Notwithstanding Subsection (2)(b)(ii)(A), the total amount of the credit under this Subsection (2)(b) may not exceed $50,000 per commercial unit.

(C) The credit under this Subsection (2)(b) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

(iv) Only the principal recovery portion of the lease payments, which is the cost incurred by a business entity in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

(v) A business entity that leases a commercial energy system is eligible to use the tax credit under this Subsection (2)(b) for a period no greater than seven years from the initiation of the lease.

(vi) A tax credit allowed by this Subsection (2)(b) may not be carried forward or carried back.

(c) (i) For taxable years beginning on or after January 1, 2007, a business entity that owns a commercial energy system situated in Utah using wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity is entitled to a refundable tax credit as provided in this Subsection (2)(c) if:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity is entitled to a tax credit under this section equal to the product of:

(I) 0.35 cents; and

(II) the kilowatt hours of electricity produced and either used or sold during the taxable year.

(B) (I) The credit calculated under Subsection (2)(c)(ii)(A) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(II) The credit allowed by this Subsection (2)(c) for each year may not be carried forward or carried back.

(C) The credit under this Subsection (2)(c) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(c) if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

(d) (i) A tax credit under Subsection (2)(a) or (b) may be claimed for the taxable year in which the energy system is completed and placed in service.

(ii) Additional energy systems or parts of energy systems may be claimed for subsequent years.

(iii) If the amount of a tax credit under Subsection (2)(a) exceeds a business entity's tax liability under this chapter for a taxable year, the amount of the credit exceeding the liability may be carried forward for a period which does not exceed the next four taxable years.

(3) (a) Except as provided in Subsection (3)(b), the tax credits provided for under Subsection (2) are in addition to any tax credits provided under the laws or rules and regulations of the United States.

(b) A purchaser of one or more solar units that claims a tax credit under Section 59-7-614.3 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

(c) (i) The office may set standards for residential and commercial energy systems claiming a credit under Subsections (2)(a) and (b) that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(ii) The office may set standards for residential and commercial energy systems that establish the reasonable costs of an energy system, as used in Subsections (2)(a)(ii)(A) and (2)(b)(ii)(A), as an amount per unit of energy production.

(iii) A tax credit may not be taken under Subsection (2) until the office has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

(d) The office and the commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.

(4) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the credit should be continued, modified, or repealed.

(b) The Revenue and Taxation Interim Committee's report under Subsection (4)(a) shall include information concerning the cost of the credit, the purpose and effectiveness of the credit, and the state's benefit from the credit.

Amended by Chapter 37, 2012 General Session

59-7-614.1. Refundable tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.

(1) For taxable years beginning on or after January 1, 2004, a taxpayer may claim a refundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter; and

(c) in an amount equal to the amount of tax the taxpayer pays:

(i) on a purchase of a hand tool:

(A) if the purchase is made on or after July 1, 2004;

(B) if the hand tool is used or consumed primarily and directly in a farming

operation in the state; and

(C) if the unit purchase price of the hand tool is more than $250; and

(ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).

(2) A taxpayer:

(a) shall retain the following to establish the amount of tax the resident or nonresident individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i):

(i) a receipt;

(ii) an invoice; or

(iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

(b) may not carry forward or carry back a tax credit under this section.

(3) (a) In accordance with any rules prescribed by the commission under Subsection (3)(b), the commission shall:

(i) make a refund to a taxpayer that claims a tax credit under this section if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter; and

(ii) transfer at least annually from the General Fund into the Education Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a taxpayer as required by Subsection (3)(a)(i); or

(ii) transfers from the General Fund into the Education Fund as required by Subsection (3)(a)(ii).

Amended by Chapter 382, 2008 General Session

59-7-614.2. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a taxpayer that meets the definition of "business entity" as defined in Section 63M-1-2403.

(b) "Community development and renewal agency" is as defined in Section 17C-1-102.

(c) "Local government entity" is as defined in Section 63M-1-2403.

(d) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, a business entity, local government entity, or community development and renewal agency may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity, local government entity, or community development and renewal agency for the taxable year.

(4) A community development and renewal agency may claim a tax credit under this section only if a local government entity assigns the tax credit to the community development and renewal agency in accordance with Section 63M-1-2404.

(5) (a) In accordance with any rules prescribed by the commission under

Subsection (5)(b), the commission shall make a refund to the following that claim a tax credit under this section:

(i) a local government entity;

(ii) a community development and renewal agency; or

(iii) a business entity if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity, local government entity, or community development and renewal agency as required by Subsection (5)(a).

(6) (a) On or before October 1, 2013, and every five years after October 1, 2013, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (6), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each business entity, local government entity, or community development and renewal agency for each calendar year;

(ii) the criteria that the office uses in granting a tax credit;

(iii) (A) for a business entity, the new state revenues generated by the business entity for the calendar year; or

(B) for a local government entity, regardless of whether the local government entity assigns the tax credit in accordance with Section 63M-1-2404, the new state revenues generated as a result of a new commercial project within the local government entity for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section 63M-1-2406; and

(v) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (6)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Amended by Chapter 246, 2012 General Session
Amended by Chapter 410, 2012 General Session

59-7-614.3. Nonrefundable tax credit for qualifying solar projects.

(1) As used in this section:

(a) "Active solar system" is as defined in Section 59-7-614.

(b) "Purchaser" means a taxpayer that purchases one or more solar units from a qualifying political subdivision.

(c) "Qualifying political subdivision" means:

(i) a city or town in this state;
(ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act; or
(iii) a special service district created under Title 17D, Chapter 1, Special Service District Act.
(d) "Qualifying solar project" means the portion of an active solar system:
(i) that a qualifying political subdivision:
(A) constructs;
(B) controls; or
(C) owns;
(ii) with respect to which the qualifying political subdivision described in Subsection (1)(c)(i) sells one or more solar units; and
(iii) that generates electrical output that is furnished:
(A) to one or more residential units; or
(B) for the benefit of one or more residential units.
(e) "Residential unit" is as defined in Section 59-7-614.
(f) "Solar unit" means a portion of the electrical output:
(i) of a qualifying solar project;
(ii) that a qualifying political subdivision sells to a purchaser; and
(iii) the purchase of which requires that the purchaser agree to bear a proportionate share of the expense of the qualifying solar project:
(A) in accordance with a written agreement between the purchaser and the qualifying political subdivision;
(B) in exchange for a credit on the purchaser's electrical bill; and
(C) as determined by a formula established by the qualifying political subdivision.
(2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2008, a purchaser may claim a nonrefundable tax credit equal to the product of:
(a) the amount the purchaser pays to purchase one or more solar units during the taxable year; and
(b) 25%.
(3) For a taxable year, a tax credit under this section may not exceed $2,000 on a return.
(4) A purchaser may carry forward a tax credit under this section for a period that does not exceed the next four taxable years if:
(a) the purchaser is allowed to claim a tax credit under this section for a taxable year; and
(b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter for that taxable year.
(5) Subject to Section 59-7-614, a tax credit under this section is in addition to any other tax credit allowed by this chapter.
(6) (a) On or before October 1, 2012, and every five years after October 1, 2012, the Revenue and Taxation Interim Committee shall review the tax credit allowed by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or

repealed.

(b) The Revenue and Taxation Interim Committee's report under Subsection (6)(a) shall include information concerning the cost of the tax credit, the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.

Amended by Chapter 384, 2011 General Session

59-7-614.4. Tax credit for pass-through entity taxpayer.

(1) As used in this section:

(a) "Pass-through entity" is as defined in Section 59-10-1402.

(b) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(2) A pass-through entity taxpayer may claim a refundable tax credit against the tax otherwise due under this chapter.

(3) The tax credit described in Subsection (2) is equal to the amount paid or withheld by the pass-through entity on behalf of the pass-through entity taxpayer described in Subsection (2) in accordance with Section 59-10-1403.2.

(4) A pass-through entity taxpayer may not claim a tax credit under this section for an amount for which the pass-through entity taxpayer claims a tax credit under Section 59-10-1103.

Enacted by Chapter 312, 2009 General Session

59-7-614.5. Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a taxpayer that meets the definition of a motion picture company under Section 63M-1-1802.

(b) "Office" means the Governor's Office of Economic Development.

(c) "State-approved production" has the same meaning as defined in Section 63M-1-1802.

(2) For taxable years beginning on or after January 1, 2009, a motion picture company may claim a refundable tax credit for a state-approved production.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to a motion picture company under Section 63M-1-1803 for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a motion picture company that claims a tax credit under this section if the amount of the tax credit exceeds the motion picture company's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a motion picture company as required by Subsection (4)(a).

(5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each motion picture company for each calendar year;

(ii) the criteria that the office uses in granting the tax credit;

(iii) the dollars left in the state, as defined in Section 63M-1-1802, by each motion picture company for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section 63M-1-1805; and

(v) any other information requested by the Revenue and Taxation Interim Committee.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Amended by Chapter 246, 2012 General Session

59-7-614.6. Refundable tax credit for certain business entities generating state tax revenue increases.

(1) As used in this section:

(a) "Eligible business entity" is as defined in Section 63M-1-2902.

(b) "Eligible new state tax revenues" is as defined in Section 63M-1-2902.

(c) "Office" means the Governor's Office of Economic Development.

(d) "Pass-through entity" is as defined in Section 59-10-1402.

(e) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(f) "Qualifying agreement" means an agreement under Subsection 63M-1-2908 that includes a provision for an eligible business entity to make new capital expenditures of at least $1,000,000,000 in the state.

(2) Subject to the other provisions of this section, an eligible business entity may:

(a) claim a refundable tax credit as provided in Subsection (3); or

(b) if the eligible business entity is a pass-through entity, pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that the eligible business entity could otherwise claim under this section.

(3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit an eligible business entity may claim or pass through is the amount listed on the tax credit certificate that the office issues to the eligible business entity for a taxable year in accordance with Section 63M-1-2908.

(b) Subject to Subsection (3)(c), a tax credit under this section may not exceed the amount of eligible new state tax revenues generated by an eligible business entity for the taxable year for which the eligible business entity claims a tax credit under this

section.

(c) A tax credit under this section for an eligible business entity that enters into a qualifying agreement may not exceed:

(i) for the taxable year in which the eligible business entity first generates eligible new state tax revenues and the two following years, the amount of eligible new state tax revenues generated by the eligible business entity; and

(ii) for the seven taxable years following the last of the three taxable years described in Subsection (3)(c)(i), 75% of the amount of eligible new state tax revenues generated by the eligible business entity.

(4) An eligible business entity may only claim or pass through a tax credit under this section for a taxable year for which the eligible business entity holds a tax credit certificate issued in accordance with Section 63M-1-2908.

(5) An eligible business entity may not:

(a) carry forward or carry back a tax credit under this section; or

(b) claim or pass through a tax credit in an amount greater than the amount listed on a tax credit certificate issued in accordance with Section 63M-1-2908 for a taxable year.

Amended by Chapter 423, 2012 General Session

59-7-614.7. Nonrefundable alternative energy development tax credit.

(1) As used in this section:

(a) "Alternative energy entity" is as defined in Section 63M-4-502.

(b) "Alternative energy project" is as defined in Section 63M-4-502.

(c) "Office" is as defined in Section 63M-4-401.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each alternative energy entity

for each taxable year;

(ii) the new state revenues generated by each alternative energy project;

(iii) the information contained in the office's latest report to the Legislature under Section 63M-4-505; and

(iv) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Enacted by Chapter 410, 2012 General Session

59-7-614.8. Nonrefundable alternative energy manufacturing tax credit.

(1) As used in this section:

(a) "Alternative energy entity" is as defined in Section 63M-1-3102.

(b) "Alternative energy manufacturing project" is as defined in Section 63M-1-3102.

(c) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy manufacturing as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 1, Part 31, Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy manufacturing project;

(iii) the information contained in the office's latest report to the Legislature under Section 63M-1-3105; and

(iv) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Enacted by Chapter 410, 2012 General Session

59-7-614.9. Nonrefundable tax credit for employing a recently deployed veteran.

(1) As used in this section, "recently deployed veteran" means an individual who:

(a) was mobilized to active federal military service in:

(i) an active component of the United States Armed Forces as defined in Section 59-10-1027; or

(ii) a reserve component of the United States Armed Forces as defined in Section 59-10-1027; and

(b) received an honorable or general discharge from active federal military service under Subsection (1)(a) within the two-year period before the date the employment begins.

(2) A corporation may claim a nonrefundable tax credit as provided in this section against a tax under this chapter if the corporation employs a recently deployed veteran on or after January 1, 2012, who:

(a) (i) is collecting or is eligible to collect unemployment benefits under Title 35A, Chapter 4, Part 4, Benefits and Eligibility; or

(ii) within the last two years, has exhausted the unemployment benefits under Subsection (2)(a)(i); and

(b) works for the corporation at least 35 hours per week for not less than 45 of the 52 weeks following the recently deployed veteran's start date for the employment.

(3) A tax credit:

(a) earned under this section shall be claimed beginning in the year the requirements of Subsection (2) are met;

(b) for the first taxable year, is equal to $200 for each month of employment not to exceed $2,400 for the taxable year for each recently deployed veteran; and

(c) for the second taxable year, is equal to $400 for each month of employment not to exceed $4,800 for the taxable year for each recently deployed veteran.

(4) A corporation that claims a tax credit under this section shall retain the following for each recently deployed veteran for which a tax credit is claimed under this section:

(a) the recently deployed veteran's:

(i) name;

(ii) taxpayer identification number;

(iii) last known address;

(iv) start date for the employment; and

(v) documentation establishing that the recently deployed veteran was employed as required under Subsection (2)(b);

(b) documentation provided by the recently deployed veteran's military service unit establishing that the recently deployed veteran is a recently deployed veteran; and

(c) a signed statement from the Department of Workforce Services that the recently deployed veteran meets the requirements of Subsection (2)(a) regarding unemployment benefits.

(5) A corporation shall provide the information described in Subsection (4) to the commission at the request of the commission.

(6) A corporation may carry forward a tax credit under this section for a period that does not exceed the next five taxable years if:

(a) the corporation is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the corporation's tax liability under this chapter for that taxable year.

Enacted by Chapter 306, 2012 General Session

59-7-701. Taxation of S corporations -- Revenue and Taxation Interim Committee study.

(1) Except as provided in Section 59-7-102 and subject to the other provisions of this part, beginning on July 1, 1994, and ending on the last day of the taxable year that begins on or after January 1, 2012, but begins on or before December 31, 2012, an S corporation is subject to taxation in the same manner as that S corporation is taxed under Subchapter S - Tax Treatment of S Corporations and Their Shareholders, Sec. 1361 et seq., Internal Revenue Code.

(2) An S corporation is taxed at the tax rate provided in Section 59-7-104.

(3) The business income and nonbusiness income of an S corporation is subject to Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions.

(4) An S corporation having income derived from or connected with Utah sources shall make a return in accordance with Section 59-10-507.

(5) An S corporation shall make payments of estimated tax as required by Section 59-7-504.

(6) An S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.

(7) A pass-through entity taxpayer as defined in Section 59-10-1402 of an S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.

(8) Provisions under this chapter governing the following apply to an S corporation:

(a) an assessment;

(b) a penalty;

(c) a refund; or

(d) a record required for an S corporation.

(9) (a) During the 2011 interim, the Revenue and Taxation Interim Committee shall study the fiscal impacts of:

(i) the enactment of Laws of Utah 2009, Chapter 312; and

(ii) the taxation of S corporations under this part.

(b) On or before November 30, 2011, the Revenue and Taxation Interim Committee shall report its findings and recommendations on the study to the Executive Appropriations Committee.

Amended by Chapter 312, 2009 General Session

59-7-705. Minimum tax not applicable to an S corporation.

The minimum tax provided in Section 59-7-104 does not apply to an S corporation subject to taxation under Section 59-7-701.

Amended by Chapter 312, 2009 General Session

59-7-706. Distribution and credit of revenues.

Revenues collected or received by the commission under this part shall be deposited daily with the state treasurer and distributed and credited as provided in Section 59-10-544.

Amended by Chapter 312, 2009 General Session

59-7-707. Commission rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this part.

Amended by Chapter 312, 2009 General Session

59-7-801. Definitions.

For purposes of this part:

(1) "Unrelated business income" means unrelated business income as determined under Section 512, Internal Revenue Code.

(2) "Utah unrelated business income" means the unrelated business income apportioned to Utah in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions.

Amended by Chapter 225, 2005 General Session

59-7-802. Taxation of unrelated business income.

(1) An organization which is exempt from taxation as provided in Subsection 59-7-102(1) or Section 59-10-126 shall be subject to the tax imposed by this part on its Utah unrelated business income.

(2) Utah unrelated business income shall be taxed at the rate provided in Section 59-7-104 except that the minimum tax does not apply to organizations subject

to the tax under this part.

Amended by Chapter 311, 1995 General Session

59-7-803. Filing returns -- Extension.

(1) An organization subject to the tax imposed by this part shall file a state return on or before the date which the exempt organization is required to file its federal exempt organization business income tax return, including extensions.

(2) If a valid federal extension is filed, the extension shall be considered valid for state purposes and payment of tax shall be made as provided in Section 59-7-507.

Amended by Chapter 311, 1995 General Session

59-7-804. Transition rule -- Net loss carryforwards.

Net operating losses shall be recognized to the extent recognized for federal purposes even if incurred prior to the effective date of this part.

Enacted by Chapter 178, 1994 General Session

59-7-805. Apportionment provisions.

For purposes of this part, only the property, payroll, and sales included in the computation of unrelated business income or directly related to the unrelated business income of an exempt organization shall be included when apportioning income under Part 3.

Enacted by Chapter 178, 1994 General Session

59-8-101. Title.

This chapter is known as the "Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act."

Amended by Chapter 278, 1995 General Session

59-8-102. Purpose.

The purpose of this chapter is to provide for the imposition of an in lieu excise tax on the gross receipts of corporations, other than those described in Subsection 59-7-102(3), eleemosynary, religious, or charitable institutions, operating in this state who are not otherwise required to pay income or franchise taxes to the state or to declare dividends.

Amended by Chapter 311, 1995 General Session

59-8-103. Definitions.

As used in this chapter:

(1) "Corporation" means:

(a) any domestic corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;

(b) any foreign corporation engaged in business in this state under Sections 16-6a-1501 through 16-6a-1518;

(c) any project entity defined in Section 11-13-103; or

(d) a public agency, as defined in Section 11-13-103, to the extent it owns an interest in facilities providing additional project capacity, as defined in Section 11-13-103.

(2) "Engaging in business" means carrying on or causing to be carried on any activity through which goods or services are made or rendered by the taxpayer, except as provided in Section 59-7-102.

(3) "Gross receipts" means the totality of the consideration that the taxpayer receives for any good or service produced or rendered in the state without any deduction or expense paid or accrued in respect to it.

(4) "Taxpayer" means any corporation, other than an eleemosynary, religious, or charitable institution, any insurance company, credit union, or Subchapter S organization, any nonprofit hospital, educational, welfare, or employee representation organization, or any mutual benefit association engaged in business in the state that is not otherwise required to pay income or franchise tax to the state under Title 59, Chapter 7.

Amended by Chapter 286, 2002 General Session

59-8-104. Rate -- Change of rate.

(1) Beginning on or after July 1, 2006, and subject to Section 11-13-303, an in lieu excise tax is imposed on the gross receipts of a taxpayer engaging in business in the state of Utah in each taxable year as follows:

Gross Receipts Amount	Rate of Tax
Not in excess of $10,000,000	None
In excess of $10,000,000 but not in excess of $500,000,000	.6250%
In excess of $500,000,000 but not in excess of $1,000,000,000	.9375%
In excess of $1,000,000,000	1.2500%

(2) It is the intent of the Legislature that, as a result of the tax rate decrease provided in Section 59-8-104 of Chapter 221, Laws of Utah 2006, all or a portion of any cost decrease received by a taxpayer as a result of the tax rate decrease be used in whole or in part for expenditures, scholarships, or grants that will benefit the citizens of this state.

Amended by Chapter 221, 2006 General Session

59-8-105. Time for filing of return -- Other applicable provisions.

(1) Each taxpayer upon whom a gross receipts tax is imposed under this chapter shall file a return with and pay the tax reflected in the return to the commission semiannually on or before the last day of July and January.

(2) All other provisions applicable to the gross receipts tax imposed under this chapter shall be the appropriate provisions provided for in Title 59, Chapter 7, applied as if the taxpayer under this chapter is a bank or other corporation subject to Title 59, Chapter 7.

Amended by Chapter 278, 1995 General Session

59-8-106. Rulemaking authority.

The commission is charged with the administration and enforcement of this chapter and may promulgate such rules under Title 63G, Chapter 3, the Utah Administrative Rulemaking Act as may be required to effectuate the purposes of this chapter.

Amended by Chapter 382, 2008 General Session

59-9-101 (Subsec (2)(c)(iv) Repealed 07/01/18). Tax basis -- Rates -- Exemptions -- Rate reductions.

(1) (a) Except as provided in Subsection (1)(b), (1)(d), or (5), an admitted insurer shall pay to the commission on or before March 31 in each year, a tax of 2-1/4% of the total premiums received by it during the preceding calendar year from insurance covering property or risks located in this state.

(b) This Subsection (1) does not apply to:

(i) workers' compensation insurance, assessed under Subsection (2);

(ii) title insurance premiums taxed under Subsection (3);

(iii) annuity considerations;

(iv) insurance premiums paid by an institution within the state system of higher education as specified in Section 53B-1-102; and

(v) ocean marine insurance.

(c) The taxable premium under this Subsection (1) shall be reduced by:

(i) the premiums returned or credited to policyholders on direct business subject to tax in this state;

(ii) the premiums received for reinsurance of property or risks located in this state; and

(iii) the dividends, including premium reduction benefits maturing within the year:

(A) paid or credited to policyholders in this state; or

(B) applied in abatement or reduction of premiums due during the preceding calendar year.

(d) (i) For purposes of this Subsection (1)(d):

(A) "Utah variable life insurance premium" means an insurance premium paid:

(I) by:

(Aa) a corporation; or

(Bb) a trust established or funded by a corporation; and

(II) for variable life insurance covering risks located within the state.

(B) "Variable life insurance" means an insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of one or more separate accounts that are established and maintained by the insurer pursuant to Title 31A, Insurance Code.

(ii) Notwithstanding Subsection (1)(a), beginning on January 1, 2006, the tax on that portion of the total premiums subject to a tax under Subsection (1)(a) that is a Utah variable life insurance premium shall be calculated as follows:

(A) 2-1/4% of the first $100,000 of Utah variable life insurance premiums:

(I) paid for each variable life insurance policy; and

(II) received by the admitted insurer in the preceding calendar year; and

(B) 0.08% of the Utah variable life insurance premiums that exceed $100,000:

(I) paid for the policy described in Subsection (1)(d)(ii)(A); and

(II) received by the admitted insurer in the preceding calendar year.

(iii) (A) On or before October 1, 2009, and every three years after October 1, 2009, the Revenue and Taxation Interim Committee shall study the rate reduction contained in this Subsection (1)(d).

(B) As part of the study required by Subsection (1)(d)(iii)(A) the Revenue and Taxation Interim Committee shall:

(I) hear testimony from the commission and industry representatives;

(II) make recommendations concerning whether the rate reduction should be continued, modified, or repealed; and

(III) make findings regarding:

(Aa) the cost of the rate reduction;

(Bb) the purpose and effectiveness of the rate reduction; and

(Cc) any benefits of the rate reduction to the state.

(2) (a) An admitted insurer writing workers' compensation insurance in this state, including the Workers' Compensation Fund created under Title 31A, Chapter 33, Workers' Compensation Fund, shall pay to the tax commission, on or before March 31 in each year, a premium assessment on the basis of the total workers' compensation premium income received by the insurer from workers' compensation insurance in this state during the preceding calendar year as follows:

(i) on or before December 31, 2010, an amount of equal to or greater than 1%, but equal to or less than 5.75% of the total workers' compensation premium income described in this Subsection (2);

(ii) on and after January 1, 2011, but on or before December 31, 2017, an amount of equal to or greater than 1%, but equal to or less than 4.25% of the total workers' compensation premium income described in this Subsection (2); and

(iii) on and after January 1, 2018, an amount equal to 1.25% of the total workers' compensation premium income described in this Subsection (2).

(b) Total workers' compensation premium income means the net written premium as calculated before any premium reduction for any insured employer's deductible, retention, or reimbursement amounts and also those amounts equivalent to

premiums as provided in Section 34A-2-202.

(c) The percentage of premium assessment applicable for a calendar year shall be determined by the Labor Commission under Subsection (2)(d). The total premium income shall be reduced in the same manner as provided in Subsections (1)(c)(i) and (1)(c)(ii), but not as provided in Subsection (1)(c)(iii). The commission shall promptly remit from the premium assessment collected under this Subsection (2):

(i) income to the state treasurer for credit to the Employers' Reinsurance Fund created under Subsection 34A-2-702(1) as follows:

(A) on or before December 31, 2009, an amount of up to 5% of the total workers' compensation premium income;

(B) on and after January 1, 2010, but on or before December 31, 2010, an amount of up to 4.5% of the total workers' compensation premium income;

(C) on and after January 1, 2011, but on or before December 31, 2017, an amount of up to 3% of the total workers' compensation premium income; and

(D) on and after January 1, 2018, 0% of the total workers' compensation premium income;

(ii) an amount equal to 0.25% of the total workers' compensation premium income to the state treasurer for credit to the Workplace Safety Account created by Section 34A-2-701;

(iii) an amount of up to 0.5% and any remaining assessed percentage of the total workers' compensation premium income to the state treasurer for credit to the Uninsured Employers' Fund created under Section 34A-2-704; and

(iv) beginning on January 1, 2010, 0.5% of the total workers' compensation premium income to the state treasurer for credit to the Industrial Accident Restricted Account created in Section 34A-2-705.

(d) (i) The Labor Commission shall determine the amount of the premium assessment for each year on or before each October 15 of the preceding year. The Labor Commission shall make this determination following a public hearing. The determination shall be based upon the recommendations of a qualified actuary.

(ii) The actuary shall recommend a premium assessment rate sufficient to provide payments of benefits and expenses from the Employers' Reinsurance Fund and to project a funded condition with assets greater than liabilities by no later than June 30, 2025.

(iii) The actuary shall recommend a premium assessment rate sufficient to provide payments of benefits and expenses from the Uninsured Employers' Fund and to maintain it at a funded condition with assets equal to or greater than liabilities.

(iv) At the end of each fiscal year the minimum approximate assets in the Employers' Reinsurance Fund shall be $5,000,000 which amount shall be adjusted each year beginning in 1990 by multiplying by the ratio that the total workers' compensation premium income for the preceding calendar year bears to the total workers' compensation premium income for the calendar year 1988.

(v) The requirements of Subsection (2)(d)(iv) cease when the future annual disbursements from the Employers' Reinsurance Fund are projected to be less than the calculations of the corresponding future minimum required assets. The Labor Commission shall, after a public hearing, determine if the future annual disbursements

are less than the corresponding future minimum required assets from projections provided by the actuary.

(vi) At the end of each fiscal year the minimum approximate assets in the Uninsured Employers' Fund shall be $2,000,000, which amount shall be adjusted each year beginning in 1990 by multiplying by the ratio that the total workers' compensation premium income for the preceding calendar year bears to the total workers' compensation premium income for the calendar year 1988.

(e) A premium assessment that is to be transferred into the General Fund may be collected on premiums received from Utah public agencies.

(3) An admitted insurer writing title insurance in this state shall pay to the commission, on or before March 31 in each year, a tax of .45% of the total premium received by either the insurer or by its agents during the preceding calendar year from title insurance concerning property located in this state. In calculating this tax, "premium" includes the charges made to an insured under or to an applicant for a policy or contract of title insurance for:

(a) the assumption by the title insurer of the risks assumed by the issuance of the policy or contract of title insurance; and

(b) abstracting title, title searching, examining title, or determining the insurability of title, and every other activity, exclusive of escrow, settlement, or closing charges, whether denominated premium or otherwise, made by a title insurer, an agent of a title insurer, a title insurance producer, or any of them.

(4) Beginning July 1, 1986, a former county mutual and a former mutual benefit association shall pay the premium tax or assessment due under this chapter. Premiums received after July 1, 1986, shall be considered in determining the tax or assessment.

(5) The following insurers are not subject to the premium tax on health care insurance that would otherwise be applicable under Subsection (1):

(a) an insurer licensed under Title 31A, Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(b) an insurer licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;

(c) an insurer licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(d) an insurer licensed under Title 31A, Chapter 9, Insurance Fraternals;

(e) an insurer licensed under Title 31A, Chapter 11, Motor Clubs;

(f) an insurer licensed under Title 31A, Chapter 13, Employee Welfare Funds and Plans; and

(g) an insurer licensed under Title 31A, Chapter 14, Foreign Insurers.

(6) An insurer issuing multiple policies to an insured may not artificially allocate the premiums among the policies for purposes of reducing the aggregate premium tax or assessment applicable to the policies.

(7) The retaliatory provisions of Title 31A, Chapter 3, Department Funding, Fees, and Taxes, apply to the tax or assessment imposed under this chapter.

Amended by Chapter 266, 2011 General Session

59-9-102. Offsets.

(1) If any authorized insurer doing business in this state during the tax year pays a property tax in this state, the insurer may deduct from the tax provided under this chapter that portion of the property tax paid for general state purposes.

(2) Any domestic insurance company paying a fee for examination under Section 31A-2-205 may deduct from the tax provided under this chapter the amount of the examination fee paid, subject to the limitations of Subsection 31A-2-203(2)(e).

(3) There is offset against the taxes imposed under Section 59-9-101 the amount of any assessments paid by an insurance company under the guaranty associations established under Title 31A, Chapter 28, Guaranty Associations, in the manner provided by Sections 31A-28-113 and 31A-28-212.

(4) There is an offset provided in Section 59-9-102.5 against the premium assessment imposed under Subsection 59-9-101(2) against an admitted insurer writing workers' compensation insurance in this state.

(5) The state has no liability to insurers for any amount by which offsets allowed under this section exceed the insurer's premium tax liability.

Amended by Chapter 177, 2006 General Session

59-9-102.5. Offset for occupational health and safety related donations.

(1) As used in this section:

(a) "Occupational health and safety center" means the Rocky Mountain Center for Occupational and Environmental Health created in Title 53B, Chapter 17, Part 8, Rocky Mountain Center for Occupational and Environmental Health.

(b) "Qualified donation" means a donation that is:

(i) cash;

(ii) given directly to an occupational health and safety center; and

(iii) given exclusively for the purpose of:

(A) supporting graduate level education and training in fields of:

(I) safety and ergonomics;

(II) industrial hygiene;

(III) occupational health nursing; and

(IV) occupational medicine;

(B) providing continuing education programs for employers designed to promote workplace safety; and

(C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.

(c) "Workers' compensation insurer" means an admitted insurer writing workers' compensation insurance in this state that is required to pay the premium assessment imposed under Subsection 59-9-101(2).

(2) (a) A workers' compensation insurer may offset against the premium assessment imposed under Subsection 59-9-101(2) an amount equal to the lesser of:

(i) the total of qualified donations made by the workers' compensation insurer in the calendar year for which the premium assessment is calculated; and

(ii) .10% of the workers' compensation insurer's total workers' compensation

premium income as defined in Subsection 59-9-101(2)(b) in the calendar year for which the premium assessment is calculated.

(b) The offset provided under this Subsection (2) shall be allocated in proportion to the percentages provided in Subsection 59-9-101(2)(c).

(3) An occupational health and safety center shall:

(a) provide a workers' compensation insurer a receipt for any qualified donation made by the workers' compensation insurer to the occupational health and safety center;

(b) expend money received by a qualified donation:

(i) for the purposes described in Subsection (1)(b)(iii); and

(ii) in a manner that can be audited to ensure that the money is expended for the purposes described in Subsection (1)(b)(iii); and

(c) in conjunction with the report required by Section 34A-2-202.5, report to the Legislature through the Office of the Legislative Fiscal Analyst by no later than July 1 of each year:

(i) the qualified donations received by the occupational health and safety center in the previous calendar year; and

(ii) the expenditures during the previous calendar year of qualified donations received by the occupational health and safety center.

Amended by Chapter 342, 2011 General Session

59-9-103. Taxation of insurers otherwise untaxed.

(1) As used in this section:

(a) "Administrative and claims expense" includes all claims paid, agency expenses, third party administrator expenses, taxes, licenses, fees, loss adjustment expenses, legal expenses, reinsurance premiums, and all other expenses incurred directly in connection with the insurance of Utah risks by the insurer, less any recoveries or reimbursements collected or collectible because of reinsurance or any other source, but only with respect to Utah risks. The administrative and claims expense also includes the pro rata portion attributable to Utah risks of the salaries and fringe benefits, including taxes on salaries, of all personnel responsible for the administration of the insurer, the printing and stationery, and all other expenses attributable to the administration of the insurer. When personnel are engaged in the administration of the insurer as only part of their employment, for purposes of this section their salaries and fringe benefits shall be prorated based on the portion of their time devoted to the administration of the insurer. Appropriate overhead charges shall be included with all the expenses listed in this subsection.

(b) "Utah risks" means insurance coverage on the lives, health, or against the liability of persons residing in Utah, or on property located in Utah, other than property temporarily in transit through Utah.

(2) Except for workers' compensation coverage, which is provided in Subsection (3), and except as provided under Subsection (4), every insurer which provides insurance on Utah risks shall pay to the commission, on or before March 31 of each year, a tax of 2-1/4% of the total administrative and claims expense incurred during the

prior calendar year by the insurer. This tax shall be deposited in the General Fund.

(3) Except as provided under Subsection (4), every insurer which provides workers' compensation coverage on persons employed in Utah shall pay to the commission on or before March 31 of each year a tax of 3-1/4% of the total administrative and claims expense incurred during the prior year by the insurer. This tax shall be distributed in the same manner as under Subsection 59-9-101(2).

(4) The taxes imposed under Subsections (2) and (3) do not apply to:

(a) admitted insurers;

(b) insurers taxed under Section 31A-3-301;

(c) self insurers;

(d) annuity considerations or ocean marine insurance; or

(e) a public agency insurance mutual as defined in Section 31A-1-103.

Amended by Chapter 71, 2002 General Session

59-9-104. Installment payments -- Penalty.

(1) A person whose total tax obligation under this chapter for the preceding taxable year was $10,000 or more shall pay the taxes levied under this chapter in quarterly installments. Each installment shall be based on the estimated insurance premiums received, or for the taxes imposed under Section 59-9-103, upon the estimated total administrative and claims expense incurred during the calendar quarter preceding the date on which that quarterly installment is due. The installments are due on or before April 30, July 31, October 31, and March 31. To the extent installment payments result in an overpayment of the tax obligation under this chapter, the overpayment shall be promptly refunded.

(2) If an installment is not paid or is underpaid, except as provided in Subsection (3), there shall be added a penalty at the rate and in the manner prescribed in Section 59-1-401. The amount of the underpayment is the excess of 80% of the installment shown to be due by an audit of the taxpayer's records over the amount, if any, of the installment paid on or before the last date prescribed for the payment. The taxpayer shall pay the cost of the audit, if any.

(3) No penalty, interest, or audit charge may be assessed under Subsection (2) if the taxpayer pays, for any installment required by this section, at least 27% of the annual tax reported on its annual statement for the preceding taxable year.

(4) There shall be no interest added to any estimated tax payments subject to a penalty under this section.

Amended by Chapter 205, 1995 General Session

59-9-105. Tax on certain insurers to pay for relative value study and other publications or services.

(1) An insurer that provides coverage for motor vehicle liability, uninsured motorist, and personal injury protection shall pay to the State Tax Commission on or before March 31 of each year, a tax of .01% on the total premiums received for these coverages during the preceding calendar year from policies covering motor vehicle

risks in this state.

(2) The taxable premium under this section shall be reduced by the premiums returned or credited to policyholders on direct business subject to tax in this state.

(3) Money received by the state under this section shall be deposited into the Relative Value Study Restricted Account created in Subsection (4).

(4) (a) There is created in the General Fund a restricted account known as the "Relative Value Study Restricted Account."

(b) The Relative Value Study Restricted Account shall consist of the money received by the insurance commissioner under:

(i) Section 31A-2-208; and

(ii) this section.

(c) The insurance commissioner shall administer the Relative Value Study Restricted Account. Subject to appropriations by the Legislature, the insurance commissioner shall use the money deposited into the Relative Value Study Restricted Account to pay for costs and expenses incurred by the insurance commissioner:

(i) in conducting, maintaining, and administering the relative value study referred to in Section 31A-22-307;

(ii) to prepare, publish, and distribute publications relating to insurance and consumers of insurance as provided in Section 31A-2-208; and

(iii) in providing the services of the insurance commissioner through the use of:

(A) electronic commerce; and

(B) other information technology.

Amended by Chapter 284, 2011 General Session

59-10-101. Short title.

This chapter is known as the "Individual Income Tax Act."

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-103. Definitions.

(1) As used in this chapter:

(a) "Adjusted gross income":

(i) for a resident or nonresident individual, is as defined in Section 62, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 67(e), Internal Revenue Code.

(b) "Corporation" includes:

(i) an association;

(ii) a joint stock company; and

(iii) an insurance company.

(c) "Distributable net income" is as defined in Section 643, Internal Revenue Code.

(d) "Employee" is as defined in Section 59-10-401.

(e) "Employer" is as defined in Section 59-10-401.

(f) "Federal taxable income":

(i) for a resident or nonresident individual, means taxable income as defined by Section 63, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and (b), Internal Revenue Code.

(g) "Fiduciary" means:

(i) a guardian;

(ii) a trustee;

(iii) an executor;

(iv) an administrator;

(v) a receiver;

(vi) a conservator; or

(vii) any person acting in any fiduciary capacity for any individual.

(h) "Guaranteed annuity interest" is as defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

(i) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the homesteaded land that was held to have been diminished from the Uintah and Ouray Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

(j) "Individual" means a natural person and includes aliens and minors.

(k) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all or part of the trust without the consent of a person who has a substantial beneficial interest in the trust and the interest would be adversely affected by the exercise of the settlor's power to revoke or terminate all or part of the trust.

(l) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101.

(m) "Nonresident individual" means an individual who is not a resident of this state.

(n) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a resident estate or trust.

(o) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization:

(A) through or by means of which any business, financial operation, or venture is carried on; and

(B) which is not, within the meaning of this chapter:

(I) a trust;

(II) an estate; or

(III) a corporation.

(ii) "Partnership" does not include any organization not included under the definition of "partnership" in Section 761, Internal Revenue Code.

(iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or organization described in Subsection (1)(o)(i).

(p) "Qualified nongrantor charitable lead trust" means a trust:

(i) that is irrevocable;

(ii) that has a trust term measured by:

(A) a fixed term of years; or

(B) the life of a person living on the day on which the trust is created;

(iii) under which:

(A) a portion of the value of the trust assets is distributed during the trust term:
(I) to an organization described in Section 170(c), Internal Revenue Code; and
(II) as a:
(Aa) guaranteed annuity interest; or
(Bb) unitrust interest; and
(B) assets remaining in the trust at the termination of the trust term are distributed to a beneficiary:
(I) designated in the trust; and
(II) that is not an organization described in Section 170(c), Internal Revenue Code;
(iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue Code; and
(v) under which the grantor of the trust is not treated as the owner of any portion of the trust for federal income tax purposes.
(q) (i) "Resident individual" means:
(A) an individual who is domiciled in this state for any period of time during the taxable year, but only for the duration of the period during which the individual is domiciled in this state; or
(B) an individual who is not domiciled in this state but:
(I) maintains a place of abode in this state; and
(II) spends in the aggregate 183 or more days of the taxable year in this state.
(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of Subsection (1)(q)(i)(B), the commission shall by rule define what constitutes spending a day of the taxable year in the state.
(r) "Resident estate" or "resident trust" is as defined in Section 75-7-103.
(s) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101.
(t) "State income tax percentage for a nonresident estate or trust" means a percentage equal to a nonresident estate's or trust's state taxable income for the taxable year divided by the nonresident estate's or trust's total adjusted gross income for that taxable year after making the adjustments required by:
(i) Section 59-10-202;
(ii) Section 59-10-207;
(iii) Section 59-10-209.1; or
(iv) Section 59-10-210.
(u) "State income tax percentage for a nonresident individual" means a percentage equal to a nonresident individual's state taxable income for the taxable year divided by the difference between:
(i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross income for that taxable year, after making the:
(A) additions and subtractions required by Section 59-10-114; and
(B) adjustments required by Section 59-10-115; and
(ii) if the nonresident individual described in Subsection (1)(u)(i) is a servicemember, the compensation the servicemember receives for military service if the servicemember is serving in compliance with military orders.
(v) "State income tax percentage for a part-year resident individual" means, for

a taxable year, a fraction:

(i) the numerator of which is the sum of:

(A) subject to Section 59-10-1404.5, for the time period during the taxable year that the part-year resident individual is a resident, the part-year resident individual's total adjusted gross income for that time period, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) for the time period during the taxable year that the part-year resident individual is a nonresident, an amount calculated by:

(I) determining the part-year resident individual's adjusted gross income for that time period, after making the:

(Aa) additions and subtractions required by Section 59-10-114; and

(Bb) adjustments required by Section 59-10-115; and

(II) calculating the portion of the amount determined under Subsection (1)(v)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117; and

(ii) the denominator of which is the difference between:

(A) the part-year resident individual's total adjusted gross income for that taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) if the part-year resident individual is a servicemember, any compensation the servicemember receives for military service during the portion of the taxable year that the servicemember is a nonresident if the servicemember is serving in compliance with military orders.

(w) "Taxable income" or "state taxable income":

(i) subject to Section 59-10-1404.5, for a resident individual, means the resident individual's adjusted gross income after making the:

(A) additions and subtractions required by Section 59-10-114; and

(B) adjustments required by Section 59-10-115;

(ii) for a nonresident individual, is an amount calculated by:

(A) determining the nonresident individual's adjusted gross income for the taxable year, after making the:

(I) additions and subtractions required by Section 59-10-114; and

(II) adjustments required by Section 59-10-115; and

(B) calculating the portion of the amount determined under Subsection (1)(w)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;

(iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

(iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

(x) "Taxpayer" means any individual, estate, trust, or beneficiary of an estate or trust, that has income subject in whole or part to the tax imposed by this chapter.

(y) "Trust term" means a time period:

(i) beginning on the day on which a qualified nongrantor charitable lead trust is created; and

(ii) ending on the day on which the qualified nongrantor charitable lead trust described in Subsection (1)(y)(i) terminates.

(z) "Uintah and Ouray Reservation" means the lands recognized as being included within the Uintah and Ouray Reservation in:

(i) Hagen v. Utah, 510 U.S. 399 (1994); and

(ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

(aa) "Unadjusted income" means an amount equal to the difference between:

(i) the total income required to be reported by a resident or nonresident estate or trust on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(ii) the sum of the following:

(A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:

(I) for administering the resident or nonresident estate or trust; and

(II) that the resident or nonresident estate or trust deducts as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(B) the income distribution deduction that a resident or nonresident estate or trust deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(C) the amount that a resident or nonresident estate or trust deducts as a deduction for estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(D) the amount that a resident or nonresident estate or trust deducts as a personal exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year.

(bb) "Unitrust interest" is as defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

(cc) "Ute tribal member" means a person who is enrolled as a member of the Ute Indian Tribe of the Uintah and Ouray Reservation.

(dd) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

(ee) "Wages" is as defined in Section 59-10-401.

(2) (a) Any term used in this chapter has the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required.

(b) Any reference to the Internal Revenue Code or to the laws of the United States shall mean the Internal Revenue Code or other provisions of the laws of the United States relating to federal income taxes that are in effect for the taxable year.

(c) Any reference to a specific section of the Internal Revenue Code or other provision of the laws of the United States relating to federal income taxes shall include any corresponding or comparable provisions of the Internal Revenue Code as amended, redesignated, or reenacted.

Amended by Chapter 202, 2010 General Session

59-10-103.1. Information to be contained on individual income tax returns or booklets.

(1) The commission shall print the phrase "all state income tax dollars fund education" on:

(a) the first page of an individual income tax return; and

(b) the cover page of an individual income tax forms and instructions booklet.

(2) The commission shall include on an individual income tax return a statement for a property owner to declare that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for that property owner's primary residence.

Amended by Chapter 410, 2011 General Session

59-10-104. Tax basis -- Tax rate -- Exemption.

(1) For taxable years beginning on or after January 1, 2008, a tax is imposed on the state taxable income of a resident individual as provided in this section.

(2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:

(a) the resident individual's state taxable income for that taxable year; and

(b) 5%.

(3) This section does not apply to a resident individual exempt from taxation under Section 59-10-104.1.

Amended by Chapter 389, 2008 General Session

59-10-104.1. Exemption from taxation.

(1) For purposes of this section:

(a) "Personal exemptions" means the total exemption amount an individual is allowed to claim for the taxable year under Section 151, Internal Revenue Code, for:

(i) the individual;

(ii) the individual's spouse; and

(iii) the individual's dependents.

(b) "Standard deduction":

(i) means the standard deduction an individual is allowed to claim for the taxable year under Section 63, Internal Revenue Code; and

(ii) notwithstanding Subsection (1)(b)(i), does not include an additional amount allowed under Section 63(f), Internal Revenue Code, for an individual or an individual's spouse who is:

(A) blind; or

(B) 65 years of age or older.

(2) For taxable years beginning on or after January 1, 2002, an individual is exempt from a tax imposed by Section 59-10-104 or 59-10-116 if the individual's

adjusted gross income on the individual's federal individual income tax return for the taxable year is less than or equal to the sum of the individual's:

(a) personal exemptions for that taxable year; and

(b) standard deduction for that taxable year.

Amended by Chapter 389, 2008 General Session

59-10-110. Disallowance of federal tax credits.

A credit applied directly to the income tax calculated for federal income tax purposes in accordance with the Internal Revenue Code may not be applied in calculating the tax due under this chapter.

Amended by Chapter 389, 2008 General Session

59-10-114. Additions to and subtractions from adjusted gross income of an individual.

(1) There shall be added to adjusted gross income of a resident or nonresident individual:

(a) a lump sum distribution that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;

(b) the amount of a child's income calculated under Subsection (4) that:

(i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and

(ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;

(c) (i) a withdrawal from a medical care savings account and any penalty imposed for the taxable year if:

(A) the resident or nonresident individual does not deduct the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;

(B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

(C) the withdrawal is:

(I) subtracted on a return the resident or nonresident individual files under this chapter for a taxable year beginning on or before December 31, 2007; or

(II) used as the basis for a resident or nonresident individual to claim a tax credit under Section 59-10-1021;

(ii) a disbursement required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(3); or

(iii) an amount required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(5)(c);

(d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident individual who is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident individual who is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section 53B-8a-102; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident individual:

(I) who is the account owner; and

(II) on the resident or nonresident individual's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident individual who is the account owner to claim a tax credit under Section 59-10-1017;

(e) except as provided in Subsection (5), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by one or more of the following entities:

(i) a state other than this state;

(ii) the District of Columbia;

(iii) a political subdivision of a state other than this state; or

(iv) an agency or instrumentality of an entity described in Subsections (1)(e)(i) through (iii);

(f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

(g) any distribution received by a resident beneficiary of a nonresident trust of undistributed distributable net income realized by the trust on or after January 1, 2004, if that undistributed distributable net income was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state, with undistributed distributable net income considered to be distributed from the most recently accumulated undistributed distributable net income; and

(h) any adoption expense:

(i) for which a resident or nonresident individual receives reimbursement from another person; and

(ii) to the extent to which the resident or nonresident individual subtracts that adoption expense:

(A) on a return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) from federal taxable income on a federal individual income tax return.

(2) There shall be subtracted from adjusted gross income of a resident or nonresident individual:

(a) the difference between:

(i) the interest or a dividend on an obligation or security of the United States or an authority, commission, instrumentality, or possession of the United States, to the extent that interest or dividend is:

(A) included in adjusted gross income for federal income tax purposes for the

taxable year; and

(B) exempt from state income taxes under the laws of the United States; and

(ii) any interest on indebtedness incurred or continued to purchase or carry the obligation or security described in Subsection (2)(a)(i);

(b) for taxable years beginning on or after January 1, 2000, if the conditions of Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

(i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(c) an amount received by a resident or nonresident individual or distribution received by a resident or nonresident beneficiary of a resident trust:

(i) if that amount or distribution constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(ii) to the extent that amount or distribution is included in adjusted gross income for that taxable year on the federal individual income tax return of the resident or nonresident individual or resident or nonresident beneficiary of a resident trust;

(d) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year; and

(e) an amount:

(i) received by an enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction.

(3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

(i) the taxpayer is a Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (3).

(b) The agreement described in Subsection (3)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(b); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(b);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (3) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

(4) (a) For purposes of this Subsection (4), "Form 8814" means:

(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or

(ii) (A) a form designated by the commission in accordance with Subsection (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and

(B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.

(b) The amount of a child's income added to adjusted gross income under Subsection (1)(b) is equal to the difference between:

(i) the lesser of:

(A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

(III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i) through (iv) may not be added to adjusted gross income of a resident or nonresident

individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(e)(i) or (ii), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(e)(iii) or (iv), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

Amended by Chapter 6, 2010 General Session

59-10-115. Adjustments to adjusted gross income.

(1) The commission shall allow an adjustment to adjusted gross income of a resident or nonresident individual if the resident or nonresident individual would otherwise:

(a) receive a double tax benefit under this part; or

(b) suffer a double tax detriment under this part.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to allow for the adjustment to adjusted gross income required by Subsection (1).

Amended by Chapter 382, 2008 General Session
Amended by Chapter 389, 2008 General Session

59-10-116. Tax on nonresident individual -- Calculation -- Exemption.

(1) Except as provided in Subsection (2), a tax is imposed on a nonresident individual in an amount equal to the product of the:

(a) nonresident individual's state taxable income; and

(b) percentage listed in Subsection 59-10-104(2).

(2) This section does not apply to a nonresident individual exempt from taxation under Section 59-10-104.1.

Amended by Chapter 382, 2008 General Session
Amended by Chapter 389, 2008 General Session

59-10-116.1. Exemption for out-of-state employee.

(1) As used in this section:

(a) "Declared state disaster or emergency" is as defined in Section 53-2a-1202.

(b) "Disaster period" is as defined in Section 53-2a-1202.

(c) "Out-of-state business" is as defined in Section 53-2a-1202.

(d) "Out-of-state employee" is as defined in Section 53-2a-1202.

(2) An out-of-state employee, including a pass-through entity taxpayer who is an out-of-state employee, is exempt from a tax under this chapter for income earned or passed through:

(a) from an out-of-state business;

(b) during a disaster period; and

(c) as a result of the out-of-state business responding to a declared state disaster or emergency.

Enacted by Chapter 376, 2014 General Session

59-10-117. State taxable income derived from Utah sources.

(1) For purposes of Section 59-10-116, state taxable income derived from Utah sources includes those items includable in state taxable income attributable to or resulting from:

(a) the ownership in this state of any interest in real or tangible personal property, including real property or property rights from which gross income from mining as defined by Section 613(c), Internal Revenue Code, is derived;

(b) the carrying on of a business, trade, profession, or occupation in this state;

(c) an addition to adjusted gross income required by Subsection 59-10-114(1)(c), (d), or (h) to the extent the addition was previously subtracted from state taxable income;

(d) a subtraction from adjusted gross income required by Subsection 59-10-114(2)(c) for a refund described in Subsection 59-10-114(2)(c) to the extent the refund subtracted is related to a tax imposed by this state; or

(e) an adjustment to adjusted gross income required by Section 59-10-115 to the extent the adjustment is related to an item described in Subsections (1)(a) through (d).

(2) For the purposes of Subsection (1):

(a) income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property shall constitute income derived from Utah sources only to the extent that the income is from property employed in a trade, business, profession, or occupation carried on in this state;

(b) a deduction with respect to a capital loss, net long-term capital gain, or net operating loss shall be based solely on income, gain, loss, and deduction connected with Utah sources, under rules prescribed by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, but otherwise shall be determined in the same manner as the corresponding federal deductions;

(c) a salary, wage, commission, or compensation for personal services rendered outside this state may not be considered to be derived from Utah sources;

(d) a nonresident shareholder's distributive share of ordinary income, gain, loss, and deduction derived from or connected with Utah sources shall be determined under Section 59-10-118;

(e) a nonresident, other than a dealer holding property primarily for sale to customers in the ordinary course of the dealer's trade or business, may not be considered to carry on a trade, business, profession, or occupation in this state solely

by reason of the purchase or sale of property for the nonresident's own account;

(f) if a trade, business, profession, or occupation is carried on partly within and partly without this state, an item of income, gain, loss, or a deduction derived from or connected with Utah sources shall be determined in accordance with Section 59-10-118;

(g) a nonresident partner's distributive share of partnership income, gain, loss, deduction, or credit derived from or connected with Utah sources shall be determined under Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act;

(h) the share of a nonresident estate or trust or a nonresident beneficiary of any estate or trust in income, gain, loss, or deduction derived from or connected with Utah sources shall be determined under Section 59-10-207; and

(i) any dividend, interest, or distributive share of income, gain, or loss from a real estate investment trust, as defined in Section 59-7-101, distributed or allocated to a nonresident investor in the trust, including any shareholder, beneficiary, or owner of a beneficial interest in the trust, shall be income from intangible personal property under Subsection (2)(a), and shall constitute income derived from Utah sources only to the extent the nonresident investor is employing its beneficial interest in the trust in a trade, business, profession, or occupation carried on by the investor in this state.

Amended by Chapter 53, 2011 General Session

59-10-118. Division of income for tax purposes.

(1) As used in this section:

(a) "Business income" means income arising from transactions and activity in the regular course of a taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

(b) "Commercial domicile" means the principal place from which the trade or business of a taxpayer is directed or managed.

(c) "Nonbusiness income" means all income other than business income.

(d) "Sales" means all gross receipts of a taxpayer not allocated under Subsections (3) through (7).

(e) "State" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any possession of the United States.

(2) A taxpayer having business income that is taxable both within and without this state, shall allocate and apportion the taxpayer's net income as provided in this section.

(3) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in Subsections (4) through (7).

(4) (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state:

(i) if and to the extent that the property is utilized in this state; or

(ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(5) (a) Capital gains and losses from sales of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) the property has a situs in this state at the time of the sale; or

(ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(6) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

(7) (a) Patent and copyright royalties are allocable to this state:

(i) if and to the extent that the patent or copyright is utilized by the payer in this state; or

(ii) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(8) All business income shall be apportioned to this state using the same methods, procedures, and requirements of Sections 59-7-311 through 59-7-320.

Amended by Chapter 105, 2008 General Session
Amended by Chapter 389, 2008 General Session

59-10-119. Returns by husband and wife if husband or wife is a nonresident.

(1) If the adjusted gross income of a husband and wife who are both nonresidents of this state is reported or determined on separate federal individual

income tax returns, the husband's and wife's state taxable incomes in this state shall be separately determined.

(2) If the adjusted gross income of a husband and wife who are both nonresidents of this state is reported or determined on a joint federal individual income tax return, the husband's and wife's tax shall be reported or determined in this state on a joint return.

(3) (a) If one spouse is a nonresident of this state and the other spouse is a resident of this state, separate taxes shall be determined on each spouse's separate state taxable incomes on forms prescribed by the commission.

(b) Notwithstanding Subsection (3)(a), a husband and wife may elect to be considered to be residents of this state for purposes of determining state taxable income for a taxable year.

(c) If one spouse who is a nonresident of this state and the other spouse who is a resident of this state file a joint federal income tax return, but determine state taxable income separately, the spouses shall compute their taxable incomes in this state as if their adjusted gross incomes had been determined separately.

Amended by Chapter 389, 2008 General Session

59-10-120. Change of status as resident or nonresident.

(1) If an individual changes the individual's status during the taxable year from resident to nonresident or from nonresident to resident, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, require the individual to file one return for the portion of the taxable year during which the individual is a resident and another return for the portion of the taxable year during which the individual is a nonresident.

(2) The taxable income of the individual described in Subsection (1) shall be determined as provided in this chapter for residents and for nonresidents as if the individual's taxable year for federal income tax purposes were limited to the period of the individual's resident and nonresident status respectively.

Amended by Chapter 389, 2008 General Session

59-10-121. Proration when two returns required.

If an individual is required to file two returns for a taxable year under Section 59-10-120:

(1) personal exemptions and the standard deduction as used on the federal individual income tax return shall be prorated between the two returns, under rules prescribed by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to reflect the proportions of the taxable year during which the individual was a resident and a nonresident; and

(2) the total amount of the taxes due on the two returns may not be less than the total amount of the taxes that would be due if the total of the taxable incomes reported on the two returns had been included in one return.

Amended by Chapter 389, 2008 General Session

59-10-122. Taxable year.

(1) For purposes of a tax imposed by this chapter, the taxable year of a resident or nonresident individual or resident or nonresident estate or trust shall be the same as the taxable year of the resident or nonresident individual or resident or nonresident estate or trust for federal income tax purposes.

(2) (a) If the taxable year of a resident or nonresident individual or resident or nonresident estate or trust is changed for federal income tax purposes, that taxable year for purposes of a tax imposed by this chapter shall be changed in the same manner as the change for federal income tax purposes.

(b) If a change in a taxable year results in a taxable period of less than 12 months for federal income tax purposes, that same taxable period shall be used in computing a tax imposed by this chapter.

Amended by Chapter 389, 2008 General Session

59-10-123. Accounting method.

(1) For purposes of a tax imposed by this chapter, a resident or nonresident individual's or resident or nonresident estate's or trust's method of accounting shall be the same as the method of accounting the resident or nonresident individual or resident or nonresident estate or trust uses for federal income tax purposes.

(2) If a resident or nonresident individual's or resident or nonresident estate's or trust's method of accounting is changed for federal income tax purposes, the resident or nonresident individual's or resident or nonresident estate's or trust's method of accounting shall be changed in the same manner:

(a) for purposes of a tax imposed by this chapter; and

(b) for any taxable year for which the change in the method of accounting is made for federal income tax purposes.

Amended by Chapter 389, 2008 General Session

59-10-124. Adjustments between taxable years after change in accounting method.

(1) In computing a resident or nonresident individual's or resident or nonresident estate's or trust's state taxable income for a taxable year under a method of accounting different from the method under which the resident or nonresident individual's or resident or nonresident estate's or trust's state taxable income was computed for the previous taxable year, state taxable income shall be increased or decreased:

(a) to prevent double inclusion or exclusion of an item of gross income as a result of the change in the method of accounting; or

(b) to prevent double allowance or disallowance of a subtraction from or addition to gross income as a result of the change in the method of accounting.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

Act, the commission may make rules for making an increase or decrease required by Subsection (1).

Amended by Chapter 389, 2008 General Session

59-10-125. Adjustment after change of accounting method.

(1) If a taxpayer's method of accounting is changed, other than from an accrual to an installment method, any additional tax that results from adjustments determined to be necessary solely by reason of the change may not be greater than if those adjustments were ratably allocated and included for the taxable year of the change and the preceding taxable years, not in excess of two, during which the taxpayer used the method of accounting from which the change is made.

(2) If a taxpayer's method of accounting is changed from an accrual to an installment method, any additional tax for the taxable year of the change in the method of accounting and for any subsequent taxable year that is attributable to the receipt of installment payments properly accrued in a prior taxable year, shall be reduced by the portion of tax for any prior taxable year attributable to the accrual of such installment payments, under rules prescribed by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 389, 2008 General Session

59-10-126. Business entities not subject to tax -- Exceptions.

(1) A business entity that is taxable as a corporation for federal income tax purposes:

(a) may not be subject to the tax imposed by this chapter; and

(b) is subject to Chapter 7, Corporate Franchise and Income Taxes.

(2) A business entity that is exempt from federal income taxation is exempt from the tax imposed by this chapter.

(3) Notwithstanding Subsection (2), if a business entity that is exempt from federal income taxation has income that is subject to federal income taxation, that income is subject to taxation under Chapter 7, Corporate Franchise and Income Taxes.

Amended by Chapter 389, 2008 General Session

59-10-136. Domicile -- Temporary absence from state.

(1) (a) An individual is considered to have domicile in this state if:

(i) except as provided in Subsection (1)(b), a dependent with respect to whom the individual or the individual's spouse claims a personal exemption on the individual's or individual's spouse's federal individual income tax return is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; or

(ii) the individual or the individual's spouse is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state.

(b) The determination of whether an individual is considered to have domicile in

this state may not be determined in accordance with Subsection (1)(a)(i) if the individual:

(i) is the noncustodial parent of a dependent:

(A) with respect to whom the individual claims a personal exemption on the individual's federal individual income tax return; and

(B) who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; and

(ii) is divorced from the custodial parent of the dependent described in Subsection (1)(b)(i).

(2) There is a rebuttable presumption that an individual is considered to have domicile in this state if:

(a) the individual or the individual's spouse claims a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence;

(b) the individual or the individual's spouse is registered to vote in this state in accordance with Title 20A, Chapter 2, Voter Registration; or

(c) the individual or the individual's spouse asserts residency in this state for purposes of filing an individual income tax return under this chapter, including asserting that the individual or the individual's spouse is a part-year resident of this state for the portion of the taxable year for which the individual or the individual's spouse is a resident of this state.

(3) (a) Subject to Subsection (3)(b), if the requirements of Subsection (1) or (2) are not met for an individual to be considered to have domicile in this state, the individual is considered to have domicile in this state if:

(i) the individual or the individual's spouse has a permanent home in this state to which the individual or the individual's spouse intends to return after being absent; and

(ii) the individual or the individual's spouse has voluntarily fixed the individual's or the individual's spouse's habitation in this state, not for a special or temporary purpose, but with the intent of making a permanent home.

(b) The determination of whether an individual is considered to have domicile in this state under Subsection (3)(a) shall be based on the preponderance of the evidence, taking into consideration the totality of the following facts and circumstances:

(i) whether the individual or the individual's spouse has a driver license in this state;

(ii) whether a dependent with respect to whom the individual or the individual's spouse claims a personal exemption on the individual's or individual's spouse's federal individual income tax return is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state;

(iii) the nature and quality of the living accommodations that the individual or the individual's spouse has in this state as compared to another state;

(iv) the presence in this state of a spouse or dependent with respect to whom the individual or the individual's spouse claims a personal exemption on the individual's or individual's spouse's federal individual income tax return;

(v) the physical location in which earned income as defined in Section 32(c)(2), Internal Revenue Code, is earned by the individual or the individual's spouse;

(vi) the state of registration of a vehicle as defined in Section 59-12-102 owned or leased by the individual or the individual's spouse;

(vii) whether the individual or the individual's spouse is a member of a church, a club, or another similar organization in this state;

(viii) whether the individual or the individual's spouse lists an address in this state on mail, a telephone listing, a listing in an official government publication, other correspondence, or another similar item;

(ix) whether the individual or the individual's spouse lists an address in this state on a state or federal tax return;

(x) whether the individual or the individual's spouse asserts residency in this state on a document, other than an individual income tax return filed under this chapter, filed with or provided to a court or other governmental entity;

(xi) the failure of an individual or the individual's spouse to obtain a permit or license normally required of a resident of the state for which the individual or the individual's spouse asserts to have domicile; or

(xii) whether the individual is an individual described in Subsection (1)(b).

(4) (a) Notwithstanding Subsections (1) through (3) and subject to the other provisions of this Subsection (4), an individual is not considered to have domicile in this state if the individual meets the following qualifications:

(i) except as provided in Subsection (4)(a)(ii)(A), the individual and the individual's spouse are absent from the state for at least 761 consecutive days; and

(ii) during the time period described in Subsection (4)(a)(i), neither the individual nor the individual's spouse:

(A) return to this state for more than 30 days in a calendar year;

(B) claim a personal exemption on the individual's or individual's spouse's federal individual income tax return with respect to a dependent who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state, unless the individual is an individual described in Subsection (1)(b);

(C) are resident students in accordance with Section 53B-8-102 who are enrolled in an institution of higher education described in Section 53B-2-101 in this state;

(D) claim a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence; or

(E) assert that this state is the individual's or the individual's spouse's tax home for federal individual income tax purposes.

(b) Notwithstanding Subsection (4)(a), an individual that meets the qualifications of Subsection (4)(a) to not be considered to have domicile in this state may elect to be considered to have domicile in this state by filing an individual income tax return in this state as a resident individual.

(c) For purposes of Subsection (4)(a), an absence from the state:

(i) begins on the later of the date:

(A) the individual leaves this state; or

(B) the individual's spouse leaves this state; and

(ii) ends on the date the individual or the individual's spouse returns to this state if the individual or the individual's spouse remains in this state for more than 30 days in a calendar year.

(d) An individual shall file an individual income tax return or amended individual income tax return under this chapter and pay any applicable interest imposed under Section 59-1-402 if:

(i) the individual did not file an individual income tax return or amended individual income tax return under this chapter based on the individual's belief that the individual has met the qualifications of Subsection (4)(a) to not be considered to have domicile in this state; and

(ii) the individual or the individual's spouse fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state.

(e) (i) Except as provided in Subsection (4)(e)(ii), an individual that files an individual income tax return or amended individual income tax return under Subsection (4)(d) shall pay any applicable penalty imposed under Section 59-1-401.

(ii) The commission shall waive the penalties under Subsections 59-1-401(2), (3), and (5) if an individual who is required by Subsection (4)(d) to file an individual income tax return or amended individual income tax return under this chapter:

(A) files the individual income tax return or amended individual income tax return within 105 days after the individual fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state; and

(B) within the 105-day period described in Subsection (4)(e)(ii)(A), pays in full the tax due on the return, any interest imposed under Section 59-1-402, and any applicable penalty imposed under Section 59-1-401, except for a penalty under Subsection 59-1-401(2), (3), or (5).

(5) (a) If an individual is considered to have domicile in this state in accordance with this section, the individual's spouse is considered to have domicile in this state.

(b) For purposes of this section, an individual is not considered to have a spouse if:

(i) the individual is legally separated or divorced from the spouse; or

(ii) the individual and the individual's spouse claim married filing separately filing status for purposes of filing a federal individual income tax return for the taxable year.

(c) Except as provided in Subsection (5)(b)(ii), for purposes of this section, an individual's filing status on a federal individual income tax return or a return filed under this chapter may not be considered in determining whether an individual has a spouse.

(6) For purposes of this section, whether or not an individual or the individual's spouse claims a property tax residential exemption under Chapter 2, Property Tax Act, for the residential property that is the primary residence of a tenant of the individual or the individual's spouse may not be considered in determining domicile in this state.

Enacted by Chapter 410, 2011 General Session

59-10-201. Taxation of resident trusts and estates.

(1) Except as provided in Subsection (2), a tax determined in accordance with

the rate prescribed by Subsection 59-10-104(2)(b) is imposed for each taxable year on the state taxable income of each resident estate or trust.

(2) The following are not subject to a tax imposed by this part:

(a) a resident estate or trust that is not required to file a federal income tax return for estates and trusts for the taxable year; or

(b) a resident trust taxed as a corporation.

(3) A resident estate or trust shall be allowed the credit provided in Section 59-10-1003, relating to an income tax imposed by another state, except that the limitation shall be computed by reference to the taxable income of the estate or trust.

(4) The property of the Utah Educational Savings Plan established in Title 53B, Chapter 8a, Utah Educational Savings Plan, and its income from operations and investments are exempt from all taxation by the state under this chapter.

Amended by Chapter 6, 2010 General Session

59-10-201.1. State taxable income of a resident estate or trust defined.

For a taxable year, the state taxable income of a resident estate or trust means the unadjusted income of the resident estate or trust for that taxable year, as adjusted by Sections 59-10-202, 59-10-209.1, and 59-10-210.

Amended by Chapter 389, 2008 General Session

59-10-202. Additions to and subtractions from unadjusted income of a resident or nonresident estate or trust.

(1) There shall be added to unadjusted income of a resident or nonresident estate or trust:

(a) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code, in determining adjusted gross income;

(b) except as provided in Subsection (3), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by one or more of the following entities:

(i) a state other than this state;

(ii) the District of Columbia;

(iii) a political subdivision of a state other than this state; or

(iv) an agency or instrumentality of an entity described in Subsections (1)(b)(i) through (iii);

(c) any portion of federal taxable income for a taxable year if that federal taxable income is derived from stock:

(i) in an S corporation; and

(ii) that is held by an electing small business trust;

(d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident estate or trust that is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or

nonresident estate or trust that is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section 53B-8a-102; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident estate or trust:

(I) that is the account owner; and

(II) on the resident or nonresident estate's or trust's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident estate or trust that is the account owner to claim a tax credit under Section 59-10-1017; and

(e) any fiduciary adjustments required by Section 59-10-210.

(2) There shall be subtracted from unadjusted income of a resident or nonresident estate or trust:

(a) the interest or a dividend on obligations or securities of the United States and its possessions or of any authority, commission, or instrumentality of the United States, to the extent that interest or dividend is included in gross income for federal income tax purposes for the taxable year but exempt from state income taxes under the laws of the United States, but the amount subtracted under this Subsection (2) shall be reduced by any interest on indebtedness incurred or continued to purchase or carry the obligations or securities described in this Subsection (2), and by any expenses incurred in the production of interest or dividend income described in this Subsection (2) to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income;

(b) income of an irrevocable resident trust if:

(i) the income would not be treated as state taxable income derived from Utah sources under Section 59-10-204 if received by a nonresident trust;

(ii) the trust first became a resident trust on or after January 1, 2004;

(iii) no assets of the trust were held, at any time after January 1, 2003, in another resident irrevocable trust created by the same settlor or the spouse of the same settlor;

(iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);

(v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the settlor or any other person is treated as an owner of any portion of the trust under Subtitle A, Subchapter J, Subpart E of the Internal Revenue Code; and

(vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on indebtedness incurred or continued to purchase or carry the assets generating the income described in this Subsection (2)(b), and by any expenses incurred in the production of income described in this Subsection (2)(b), to the extent that those expenses, including amortizable bond premiums, are deductible in determining federal taxable income;

(c) if the conditions of Subsection (4)(a) are met, the amount of income of a

resident or nonresident estate or trust derived from a deceased Ute tribal member:

(i) during a time period that the Ute tribal member resided on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(d) any amount:

(i) received by a resident or nonresident estate or trust;

(ii) that constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(iii) to the extent that amount is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts for that taxable year;

(e) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident estate or trust derived from a deceased resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts;

(f) an amount:

(i) received by a resident or nonresident estate or trust if that amount is derived from a deceased enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction;

(g) the amount that a qualified nongrantor charitable lead trust deducts under Section 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on the qualified nongrantor charitable lead trust's federal income tax return for estates and trusts for the taxable year; and

(h) any fiduciary adjustments required by Section 59-10-210.

(3) Notwithstanding Subsection (1)(b), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(b)(i) through (iv) may not be added to unadjusted income of a resident or nonresident estate or trust if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(b)(i) or (ii), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(b)(iii) or (iv), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or
(ii) (A) the state in which the entity is located; or
(B) the District of Columbia, if the entity is located within the District of Columbia.
(4) (a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:
(i) the income is derived from a deceased Ute tribal member; and
(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (4).
(b) The agreement described in Subsection (4)(a):
(i) may not:
(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(c); or
(C) affect the power of the state to establish rates of taxation; and
(ii) shall:
(A) provide for the implementation of the subtraction described in Subsection (2)(c);
(B) be in writing;
(C) be signed by:
(I) the governor; and
(II) the chair of the Business Committee of the Ute tribe;
(D) be conditioned on obtaining any approval required by federal law; and
(E) state the effective date of the agreement.
(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.
(ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the subtraction permitted under Subsection (2)(c) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.
(d) For purposes of Subsection (2)(c) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and
(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

Amended by Chapter 6, 2010 General Session

59-10-204. State taxable income of a nonresident estate or trust.

For a taxable year, the state taxable income of a nonresident estate or trust is an amount calculated by:
(1) determining the unadjusted income of the nonresident estate or trust for that taxable year after making the adjustments required by:

(a) Section 59-10-202;
(b) Section 59-10-207;
(c) Section 59-10-209.1; or
(d) Section 59-10-210; and
(2) calculating the portion of the amount determined under Subsection (1) that is derived from Utah sources determined in accordance with the principles of Section 59-10-117.

Amended by Chapter 389, 2008 General Session

59-10-205. Tax on nonresident estate or trust.

(1) Except as provided in Subsection (2), a tax is imposed on a nonresident estate or trust in an amount equal to the product of:
(a) the nonresident estate's or trust's state taxable income as determined under Section 59-10-204; and
(b) the percentage listed in Subsection 59-10-104(2).
(2) The following are not subject to a tax imposed by this part:
(a) a nonresident estate or trust that is not required to file a federal income tax return for estates and trusts for the taxable year; or
(b) a nonresident trust taxed as a corporation.

Amended by Chapter 389, 2008 General Session

59-10-207. Share of a nonresident estate or trust and beneficiaries in state taxable income.

(1) The following shall be determined as provided in this section:
(a) the share of a nonresident estate or trust or a nonresident beneficiary of a nonresident estate or trust in an item of income, gain, loss, or deduction that constitutes distributable net income; and
(b) for purposes of Section 59-10-116, the share of a nonresident beneficiary of any estate or trust in estate or trust income, gain, loss, or deduction.
(2) (a) The modifications described in Sections 59-10-202 and 59-10-210 shall be added to or subtracted from the amount of an item of income, gain, loss, or deduction that constitutes distributable net income to the extent the item relates to an item of income, gain, loss, or deduction that also constitutes distributable net income.
(b) A modification may not be made under this section if the modification duplicates an item already reflected in distributable net income.
(3) (a) The amount determined under Subsection (2)(a) shall be allocated among the estate or trust and the beneficiaries of the estate or trust, including a resident beneficiary, in proportion to the estate's, trust's, or beneficiary's share of distributable net income.
(b) An amount allocated in accordance with Subsection (3)(a) has the same character as for federal income tax purposes.
(4) (a) If an estate or trust does not have distributable net income for the taxable year, the share of each beneficiary in the amount determined under Subsection (2)(a)

shall be in proportion to the beneficiary's share of the estate or trust income for that taxable year, under state law or the terms of the governing instrument, that is required to be distributed currently and any other amounts of that income distributed in that taxable year.

(b) For purposes of this Subsection (4), any balance of net income shall be allocated to the estate or trust.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish one or more other methods of determining the shares of a beneficiary and of an estate or trust in:

(i) income derived from sources in this state; and

(ii) modifications related to income, gain, loss, or deduction.

(b) A fiduciary may elect to use a method allowed by this Subsection (5) only if the allocation of a share under Subsection (3) or (4):

(i) results in an inequity in the allocation; and

(ii) the inequity described in Subsection (5)(b)(i) is substantial:

(A) in amount; and

(B) in relation to the total amount of the modifications described in Subsection (2)(a).

Amended by Chapter 389, 2008 General Session

59-10-209.1. Adjustments to unadjusted income.

(1) The commission shall allow an adjustment to unadjusted income of a resident or nonresident estate or trust if the resident or nonresident estate or trust would otherwise:

(a) receive a double tax benefit under this chapter; or

(b) suffer a double tax detriment under this chapter.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to allow for the adjustment to unadjusted income required by Subsection (1).

Amended by Chapter 382, 2008 General Session
Amended by Chapter 389, 2008 General Session

59-10-210. Fiduciary adjustments.

(1) A share of the fiduciary adjustments described in Subsection (2) shall be added to or subtracted from unadjusted income:

(a) of:

(i) a resident or nonresident estate or trust; or

(ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and

(b) as provided in this section.

(2) For purposes of Subsection (1), the fiduciary adjustments are the following amounts:

(a) the additions to and subtractions from unadjusted income of a resident or

nonresident estate or trust required by Section 59-10-202; and

(b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:

(i) Section 59-6-102;

(ii) Part 10, Nonrefundable Tax Credit Act;

(iii) Part 11, Refundable Tax Credit Act;

(iv) Section 59-13-202;

(v) Section 63M-1-413; or

(vi) Section 63M-1-504.

(3) (a) The respective shares of an estate or trust and its beneficiaries, including for the purpose of this allocation a nonresident beneficiary, in the state fiduciary adjustments, shall be allocated in proportion to their respective shares of federal distributable net income of the estate or trust.

(b) If the estate or trust described in Subsection (3)(a) has no federal distributable net income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be allocated in proportion to that beneficiary's share of the estate or trust income for the taxable year that is, under state law or the governing instrument, required to be distributed currently plus any other amounts of that income distributed in that taxable year.

(c) After making the allocations required by Subsections (3)(a) and (b), any balance of the fiduciary adjustments shall be allocated to the estate or trust.

(4) (a) The commission shall allow a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method described in Subsection (3) if using the method described in Subsection (3) results in an inequity:

(i) in allocating the fiduciary adjustments described in Subsection (2); and

(ii) if the inequity is substantial:

(A) in amount; and

(B) in relation to the total amount of the fiduciary adjustments described in Subsection (2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules authorizing a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method described in Subsection (3) if using the method described in Subsection (3) results in an inequity:

(i) in allocating the fiduciary adjustments described in Subsection (2); and

(ii) if the inequity is substantial:

(A) in amount; and

(B) in relation to the total amount of the fiduciary adjustments described in Subsection (2).

Amended by Chapter 382, 2008 General Session
Amended by Chapter 389, 2008 General Session

59-10-401. Definitions.

For purposes of this part:

(1) "Employee" means and includes every individual performing services for an employer, either within or without, or both within or without the state of Utah, or any individual performing services within the state of Utah, the performance of which services constitutes, establishes, and determines the relationship between the parties as that of employer and employee, and includes offices of corporations, individuals, including elected officials, performing services for the United States Government or any agency or instrumentality thereof, or the state of Utah or any county, city, municipality, or political subdivision thereof.

(2) "Employer" means a person or organization transacting business in or deriving any income from sources within the state of Utah for whom an individual performs or performed any services, of whatever nature, and who has control of the payment of wages for such services, or is the officer, agent, or employee of the person or organization having control of the payment of wages. It includes any officer or department of state or federal government, or any political subdivision or agency of the federal or state government, or any city organized under a charter, or any political body not a subdivision or agency of the state.

(3) "Wages" means wages as defined in Section 3401 of the Internal Revenue Code.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-402. Requirement of withholding.

(1) Each employer making payment of wages shall deduct and withhold from wages an amount to be determined by a commission rule which will, as closely as possible, pay the income tax imposed by this chapter.

(2) Any such employer who is to do business within the state of Utah for a period not to exceed 60 days in the aggregate during any calendar year may be relieved from the requirement provided for under this part for such period by furnishing to the commission in advance a certificate so certifying. If that employer thereafter does business within the state of Utah for a period in excess of 60 days, that employer shall be liable for all the tax which otherwise he would have been required to deduct and withhold. Upon a showing of good cause by the employer the commission may extend for a period of not to exceed 30 days the time during which the employer is not required to deduct and withhold the tax.

(3) The amount withheld under this section shall be allowed to the recipient of the income as a credit against the tax imposed by this chapter. The amount so withheld during any calendar year shall be allowed as a credit for the taxable year beginning in such calendar year. If more than one taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

Amended by Chapter 96, 1987 General Session

59-10-403. Circumstances under which an employer is not required to deduct and withhold a tax.

(1) Notwithstanding any other provision of this chapter, an employer is not required to deduct and withhold any tax under this chapter upon a payment of wages to an employee:

(a) if there is in effect with respect to the payment a withholding exemption certificate furnished to the employer by the employee, certifying that the employee:

(i) incurred no liability for a tax imposed under this chapter for the employee's immediately preceding taxable year; and

(ii) expects that the employee will not incur liability for a tax imposed under this chapter for the employee's current taxable year; or

(b) if the employer:

(i) is an out-of-state business as defined in Section 53-2a-1202; and

(ii) pays the wages as compensation for services performed in response to a declared state disaster or emergency as defined in Section 53-2a-1202.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall provide for the coordination of this section with Section 59-10-402.

Amended by Chapter 376, 2014 General Session

59-10-404. Extension of withholding to payments other than wages.

(1) For purposes of this part, any supplemental unemployment compensation benefit paid to an individual, and any payment of an annuity to an individual, if at the time the payment is made a request that such annuity be subject to withholding under this part is in effect, shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.

(2) For purposes of Subsection (1), "supplemental unemployment compensation benefits" means amounts that are paid to an employee pursuant to a plan to which the employer is a party, because of an employee's involuntary separation from employment, whether or not such separation is temporary, resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, but only to the extent such benefits are includable in the employee's gross income.

(3) For purposes of this part, any unemployment compensation benefit paid to an individual pursuant to Title 35A, Chapter 4, Employment Security Act, may be subject to withholding as provided in Section 35A-4-407.

(4) For purposes of this section, "annuity" means any amount paid to an individual as a pension or annuity, but only to the extent that the amount is includable in the gross income of such individual.

(5) A request that an annuity be subject to withholding under this part shall be made by the payee in writing to the person making the annuity payments. The request may be terminated by furnishing to the person making the payments a written statement of termination which shall be treated as a withholding exemption certificate for purposes of Section 59-10-403.

Amended by Chapter 375, 1997 General Session

59-10-405. Voluntary withholding agreements.

(1) The commission may by rule provide for withholding:

(a) from remuneration for services performed by an employee for the employee's employer that, without regard to this section, does not constitute wages; or

(b) from any other type of payment with respect to which the commission finds that withholding would be appropriate under this part if the employer and the employee, or in the case of any other type of payment the person making and the person receiving the payment, agree to the withholding.

(2) The agreement provided for in Subsection (1)(b) shall be made in a form and manner as the commission may by rule prescribe.

(3) For purposes of this part, remuneration or other payments with respect to which an agreement provided for in Subsection (1), other than election made pursuant to Section 35A-4-407, is made shall be treated as if they were wages paid by an employer to an employee to the extent that such remuneration is paid or other payments are made during the period for which the agreement is in effect.

Amended by Chapter 21, 1999 General Session

59-10-405.5. Definitions -- Withholding tax license requirements -- Penalty -- Application process and requirements -- Fee not required -- Bonds.

(1) As used in this section:

(a) "applicant" means a person that:

(i) is required by this section to obtain a license; and

(ii) submits an application:

(A) to the commission; and

(B) for a license under this section;

(b) "application" means an application for a license under this section;

(c) "fiduciary of the applicant" means a person that:

(i) is required to collect, truthfully account for, and pay over an amount under this part for an applicant; and

(ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

(B) is a director of the applicant described in Subsection (1)(c)(i);

(C) is an employee of the applicant described in Subsection (1)(c)(i);

(D) is a partner of the applicant described in Subsection (1)(c)(i);

(E) is a trustee of the applicant described in Subsection (1)(c)(i); or

(F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) "fiduciary of the licensee" means a person that:

(i) is required to collect, truthfully account for, and pay over an amount under this part for a licensee; and

(ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);

(B) is a director of the licensee described in Subsection (1)(d)(i);

(C) is an employee of the licensee described in Subsection (1)(d)(i);

(D) is a partner of the licensee described in Subsection (1)(d)(i);
(E) is a trustee of the licensee described in Subsection (1)(d)(i); or
(F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
(e) "license" means a license under this section; and
(f) "licensee" means a person that is licensed under this section by the commission.
(2) The following persons are guilty of a criminal violation as provided in Section 59-1-401:
(a) a person that:
(i) is required to withhold, report, or remit any amounts under this part; and
(ii) engages in business within the state before obtaining a license under this section; or
(b) a person that:
(i) pays wages under this part; and
(ii) engages in business within the state before obtaining a license under this section.
(3) The license described in Subsection (2):
(a) shall be granted and issued:
(i) by the commission in accordance with this section;
(ii) without a license fee; and
(iii) if:
(A) an applicant:
(I) states the applicant's name and address in the application; and
(II) provides other information in the application that the commission may require; and
(B) the person meets the requirements of this section to be granted a license as determined by the commission;
(b) may not be assigned to another person; and
(c) is valid:
(i) only for the person named on the license; and
(ii) until:
(A) the person described in Subsection (3)(c)(i):
(I) ceases to do business; or
(II) changes that person's business address; or
(B) the commission revokes the license.
(4) The commission shall review an application and determine whether:
(a) the applicant meets the requirements of this section to be issued a license; and
(b) a bond is required to be posted with the commission in accordance with Subsections (5) and (6) before the applicant may be issued a license.
(5) (a) An applicant shall post a bond with the commission before the commission may issue the applicant a license if:

(i) a license under this section was revoked for a delinquency under this part for:

(A) the applicant;

(B) a fiduciary of the applicant; or

(C) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or

(ii) there is a delinquency in withholding, reporting, or remitting any amount under this part for:

(A) an applicant;

(B) a fiduciary of the applicant; or

(C) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part.

(b) If the commission determines it is necessary to ensure compliance with this part, the commission may require a licensee to:

(i) for a licensee that has not posted a bond under this section with the commission, post a bond with the commission in accordance with Subsection (6); or

(ii) for a licensee that has posted a bond under this section with the commission, increase the amount of the bond posted with the commission.

(6) (a) A bond required by Subsection (5) shall be:

(i) executed by:

(A) for an applicant, the applicant as principal, with a corporate surety; or

(B) for a licensee, the licensee as principal, with a corporate surety; and

(ii) payable to the commission conditioned upon the faithful performance of all of the requirements of this part including:

(A) the withholding or remitting of any amount under this part;

(B) the payment of any:

(I) penalty as provided in Section 59-1-401; or

(II) interest as provided in Section 59-1-402; or

(C) any other obligation of the:

(I) applicant under this part; or

(II) licensee under this part.

(b) Except as provided in Subsection (6)(d), the commission shall calculate the amount of a bond required by Subsection (5) on the basis of:

(i) commission estimates of:

(A) for an applicant, any amounts the applicant withholds, reports, or remits under this part; or

(B) for a licensee, any amounts the licensee withholds, reports, or remits under this part; and

(ii) any amount of a delinquency described in Subsection (6)(c).

(c) Except as provided in Subsection (6)(d), for purposes of Subsection (6)(b)(ii):

(i) for an applicant, the amount of the delinquency is the sum of:

(A) the amount of any delinquency that served as a basis for revoking the license under this section of:

(I) the applicant;

(II) a fiduciary of the applicant; or

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or

(B) the amount that any of the following owe under this part:

(I) the applicant;

(II) a fiduciary of the applicant; and

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or

(ii) for a licensee, the amount of the delinquency is the sum of:

(A) the amount of any delinquency that served as a basis for revoking the license under this section of:

(I) the licensee;

(II) a fiduciary of the licensee; or

(III) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part; or

(B) the amount that any of the following owe under this part:

(I) the licensee;

(II) a fiduciary of the licensee; and

(III) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part.

(d) Notwithstanding Subsection (6)(b) or (c), a bond required by Subsection (5) may not:

(i) be less than $25,000; or

(ii) exceed $500,000.

(7) (a) The commission shall revoke a license under this section if:

(i) a licensee violates any provision of this part; and

(ii) before the commission revokes the license the commission provides the licensee:

(A) reasonable notice; and

(B) a hearing.

(b) If the commission revokes a licensee's license in accordance with Subsection (7)(a), the commission may not issue another license to that licensee until that licensee complies with the requirements of this part, including:

(i) paying any:

(A) amounts due under this part;

(B) penalty as provided in Section 59-1-401; or

(C) interest as provided in Section 59-1-402; and

(ii) posting a bond in accordance with Subsections (5) and (6).

Amended by Chapter 382, 2008 General Session

59-10-406. Collection and payment of tax.

(1) (a) Each employer shall, on or before the last day of April, July, October, and January, pay to the commission the amount required to be deducted and withheld from wages paid to any employee during the preceding calendar quarter under this part.

(b) The commission may change the time or period for making reports and payments if:

(i) in its opinion, the tax is in jeopardy; or

(ii) a different time or period will facilitate the collection and payment of the tax by the employer.

(2) Each employer shall file a return, in a form the commission prescribes, with each payment of the amount deducted and withheld under this part showing:

(a) the total amount of wages paid to his employees;

(b) the amount of federal income tax deducted and withheld;

(c) the amount of tax under this part deducted and withheld; and

(d) any other information the commission may require.

(3) (a) Each employer shall file an annual return, in a form the commission prescribes, summarizing:

(i) the total compensation paid;

(ii) the federal income tax deducted and withheld; and

(iii) the state tax deducted and withheld for each employee during the calendar year.

(b) (i) Except as provided in Subsection (3)(b)(ii), the return required by Subsection (3)(a) shall be filed with the commission on or before February 28 of the year following that for which the report is made.

(ii) An annual return described in Subsection (3)(a) that is filed electronically shall be filed with the commission on or before the date established in Section 6071(b), Internal Revenue Code, for filing returns.

(4) (a) Each employer shall also, in accordance with rules prescribed by the commission, provide each employee from whom state income tax has been withheld with a statement of the amounts of total compensation paid and the amounts deducted and withheld for that employee during the preceding calendar year in accordance with this part.

(b) The statement shall be made available to each employee described in Subsection (4)(a) on or before January 31 of the year following that for which the report is made.

(5) (a) The employer is liable to the commission for the payment of the tax required to be deducted and withheld under this part.

(b) If an employer pays the tax required to be deducted and withheld under this part:

(i) an employee of the employer is not liable for the amount of any payment described in Subsection (5)(a); and

(ii) the employer is not liable to any person or to any employee for the amount of any such payment described in Subsection (5)(a).

(c) For the purpose of making penal provisions of this title applicable, any amount deducted or required to be deducted and remitted to the commission under this part is considered to be the tax of the employer and with respect to such amounts the employer is considered to be the taxpayer.

(6) (a) Each employer that deducts and withholds any amount under this part shall hold the amount in trust for the state for the payment of the amount to the

commission in the manner and at the time provided for in this part.

(b) So long as any delinquency continues, the state shall have a lien to secure the payment of any amounts withheld, and not remitted as provided under this section, upon all of the assets of the employer and all property owned or used by the employer in the conduct of the employer's business, including stock-in-trade, business fixtures, and equipment.

(c) The lien described in Subsection (6)(b) shall be prior to any lien of any kind, including existing liens for taxes.

(7) To the extent consistent with this section, the commission may use all the provisions of this chapter relating to records, penalties, interest, deficiencies, redetermination of deficiencies, overpayments, refunds, assessments, and venue to enforce this section.

(8) For all taxable years beginning on or after January 1, 2001, an employer that is required to file a federal Form W-2 in an electronic format with the Federal Department of the Treasury Internal Revenue Service shall file each Form W-2 that is required to be filed with the commission in an electronic format approved by the commission.

Amended by Chapter 10, 2006 General Session

59-10-407. Withholding tax prepayments.

(1) This section does not apply to an employer filing a withholding tax return for a period under this part other than a quarterly period.

(2) (a) Any employer whose withholding tax liability under Section 59-10-402 is estimated to average an amount designated by the commission by rule shall make a monthly prepayment of the amount required to be paid by Section 59-10-406 for each monthly period of each quarterly period.

(b) An employer that makes a monthly prepayment described in this Subsection (2) shall make the monthly prepayment as provided in this section until the commission notifies the employer in writing.

(c) (i) An employer shall file a form with a monthly prepayment.

(ii) The commission shall prescribe and furnish the form described in Subsection (2)(c)(i).

(iii) An employer shall make a monthly prepayment and file the form described in Subsection (2)(c)(i) on or before the last day of the month after the end of each monthly period of each quarterly period.

(3) In determining whether an employer's estimated withholding tax liability will average an amount that requires a monthly prepayment, the commission may consider:

(a) a return filed pursuant to Section 59-10-406; or

(b) information in the commission's possession or that may come into the commission's possession.

(4) The penalties and interest for failure to make a monthly prepayment and file the form described in Subsection (2)(c)(i) by the due date described in Subsection (2)(c)(iii) are the same as the penalties and interest under Sections 59-1-401 and 59-1-402 relating to payment of a tax, fee, or charge or filing a return.

Amended by Chapter 33, 2009 General Session

59-10-408. Withholding rules -- Agreements with federal government.

The commission may prescribe and enforce reasonable rules necessary to carry out the provisions of Sections 59-10-401 through 59-10-407, and to make such agreements with the United States Government as it deems necessary or advisable to provide for deduction and withholding of tax from wages of federal employees in the state of Utah.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-501. Rulemaking authority -- Federal income tax return information.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to allow a taxpayer to submit specified excerpts from the taxpayer's federal income tax return rather than submitting a copy of the taxpayer's entire federal income tax return.

Amended by Chapter 212, 2009 General Session

59-10-502. Persons required to file returns.

An income tax return with respect to the tax imposed by this chapter shall be filed by:

(1) every resident individual, estate, or trust required to file a federal income tax return for the taxable year; and

(2) every nonresident individual, estate, or trust having federal gross income derived from sources within the state for the taxable year and required to file a federal income tax return for such taxable year.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-503. Returns by husband and wife.

(1) A husband and wife may make a single return jointly with respect to the tax imposed by this chapter even though one of the spouses has neither gross income nor deductions, except as follows:

(a) No joint return shall be made if the husband and wife are not permitted to file a joint return for federal income tax purposes.

(b) If the federal income tax liability of husband or wife is determined on a separate return for federal income tax purposes, the income tax liability of each spouse shall be determined on a separate return under this chapter.

(c) If the federal income tax liabilities of husband and wife, other than a husband and wife described in Subsection (1)(b), are determined on a joint federal return, they shall file a joint return under this chapter and their tax liability shall be joint and several.

(d) If neither spouse is required to file a federal income tax return and either or both are required to file an income tax return under this chapter, they may elect to file

separate or joint returns and their tax liability shall be several or joint and several, in accordance with the election made.

(2) If either husband or wife is a resident and the other is a nonresident, they shall file separate income tax returns in this state on such forms as may be required by the commission, in which event their tax liability shall be several. They may elect to determine their joint taxable income as if both were residents, in which event their tax liability shall be joint and several.

Amended by Chapter 324, 2010 General Session

59-10-504. Returns made by fiduciaries and receivers.

Any fiduciary or receiver required to make a return for federal income tax purposes under the provisions of Section 6012(b) of the Internal Revenue Code shall make and file the corresponding state return for state income tax purposes.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-505. Return by minor.

(1) As used in this section, "parent" includes an individual who is entitled to the services of an individual who is a minor by reason of having parental rights and duties with respect to the individual who is a minor.

(2) If an individual who is a minor is required to make a return under this chapter, the return shall include:

(a) all income attributable to the individual's personal services; and

(b) all other items of the individual's income.

(3) The income of an individual who is a minor may not be included on the return of the individual's parent.

(4) An expenditure attributable to the income of an individual who is a minor that is made by the individual or the individual's parent is considered to have been paid or incurred by the individual who is a minor.

(5) A tax assessed against an individual who is a minor, to the extent attributable to income from personal services, if not paid by the individual, for all purposes is considered as being properly assessable against the individual's parent.

Amended by Chapter 212, 2009 General Session

59-10-507. Return by a pass-through entity.

(1) As used in this section:

(a) "Pass-through entity" is as defined in Section 59-10-1402.

(b) "Taxable year" means a year or other time period that would be a taxable year of a pass-through entity if the pass-through entity were subject to taxation under this chapter.

(2) A pass-through entity having any income derived from or connected with Utah sources shall make a return for the taxable year as prescribed by the commission.

Amended by Chapter 312, 2009 General Session

59-10-508. Returns with respect to common trust funds.

Every bank or trust company maintaining a common trust fund shall make a return to the commission for each tax year in substantially the same form as it is required to make to the federal government.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-509. Notice of qualification as fiduciary.

Every receiver, trustee in bankruptcy, assignee for benefit of creditors, or other like fiduciary shall give the commission such notice of qualification in such capacity as the commission may by rule require.

Amended by Chapter 4, 1993 General Session

59-10-510. Return of electing small business corporation.

An electing small business corporation, as defined in Section 1371(a)(2), Internal Revenue Code, shall make a return for each taxable year, stating specifically:

(1) the items of the electing small business corporation's gross income and the deductions allowable by Subtitle A, Internal Revenue Code;

(2) the names and addresses of all persons owning stock in the electing small business corporation at any time during the taxable year;

(3) the number of shares of stock owned by each shareholder at all times during the taxable year to each shareholder;

(4) the date of each distribution to a shareholder; and

(5) other information as the commission may prescribe by:

(a) form; or

(b) administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 212, 2009 General Session

59-10-511. Statement of tax withheld.

For requirement that an employer furnish an employee a statement of tax withheld, see Section 59-10-406.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-512. Signing of returns and other documents.

(1) Except as otherwise provided by Subsection (2), any return, statement, or other document required to be made under any provision of this chapter shall be signed in accordance with forms or rules prescribed by the commission.

(2) The return of a partnership made under Section 59-10-507 shall be signed by any one of the partners. The fact that a partner's name is signed on the return shall

be prima facie evidence that such partner is authorized to sign the return on behalf of the partnership.

(3) The fact that an individual's name is signed on a return, statement, or other document shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

Amended by Chapter 4, 1993 General Session

59-10-513. Verifications of returns.

Except as the commission shall otherwise provide by rule, any return, declaration, statement, or other document required to be made under any provision of this chapter, or under rules promulgated hereunder, shall contain or be verified by a written declaration that it is made under the penalties of perjury.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-514. Return filing requirements -- Rulemaking authority.

(1) Subject to Subsection (3):

(a) an individual income tax return filed for a tax imposed in accordance with Part 1, Determination and Reporting of Tax Liability and Information, shall be filed with the commission:

(i) except as provided in Subsection (1)(a)(ii), on or before the 15th day of the fourth month following the last day of the taxpayer's taxable year; or

(ii) on or before the day on which a federal individual income tax return is due under the Internal Revenue Code if the Internal Revenue Code provides a due date for filing that federal individual income tax return that is different from the due date described in Subsection (1)(a)(i);

(b) a fiduciary income tax return filed for a tax imposed in accordance with Part 2, Trusts and Estates, shall be filed with the commission:

(i) except as provided in Subsection (1)(b)(ii), on or before the 15th day of the fourth month following the last day of the taxpayer's taxable year; or

(ii) on or before the day on which a federal tax return for estates and trusts is due under the Internal Revenue Code if the Internal Revenue Code provides a due date for filing that federal tax return for estates and trusts that is different from the due date described in Subsection (1)(b)(i); or

(c) a return filed in accordance with Section 59-10-507, shall be filed with the commission:

(i) except as provided in Subsection (1)(c)(ii), in accordance with Section 59-10-507; or

(ii) on or before the day on which a federal return of partnership income is due under the Internal Revenue Code if the Internal Revenue Code provides a due date for filing that federal return of partnership income that is different from the due date described in Subsection (1)(c)(i).

(2) A person required to make and file a return under this chapter shall, without assessment, notice, or demand, pay any tax due:

(a) to the commission; and

(b) before the due date for filing the return determined without regard to any extension of time for filing the return.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing what constitutes filing a return with the commission.

Amended by Chapter 382, 2008 General Session

59-10-514.1. Definitions -- Requirement to file returns by electronic means -- Exceptions -- Waiver.

(1) As used in this section:

(a) "Electronic" is as defined in Section 59-12-102.

(b) (i) Except as provided in Subsection (1)(b)(ii), "income tax return preparer" means an individual that prepares for compensation a return required to be filed by this chapter.

(ii) "Income tax return preparer" does not include an individual who:

(A) performs only one or more of the following relating to a return required to be filed by this chapter:

(I) types the return;

(II) reproduces the return; or

(III) performs an action similar to Subsection (1)(b)(ii)(A)(I) or (II) as determined by the commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) prepares a return required to be filed by this chapter:

(I) of the individual's employer or an officer or employee of the employer if the individual is regularly and continuously employed by that employer;

(II) of any person if that individual is a fiduciary for that person; or

(III) for a taxpayer in response to a tax order issued to that taxpayer.

(c) " Prepare" means to prepare a substantial portion or more of a return required to be filed by this chapter.

(d) (i) Except as provided in Subsection (1)(d)(ii), "qualifying return" means a return required to be filed by this chapter for any taxable year that begins on or after the January 1 described in Subsection (2)(c)(i).

(ii) "Qualifying return" does not include:

(A) an amended return; or

(B) (I) a return filed for any taxable year that begins before the first day of the current taxable year; and

(II) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "current taxable year".

(2) (a) Subject to Subsections (2)(b) and (c) and except as provided in Subsection (3), an income tax return preparer shall file all qualifying returns by electronic means if the income tax return preparer prepares in any calendar year beginning on or after January 1, 2005, a total of 101 or more returns required to be filed by this chapter.

(b) (i) For purposes of Subsection (2)(a), if two or more income tax return preparers are affiliated with the same establishment, the total number of returns required to be filed by this chapter that are prepared in a calendar year beginning on or after January 1, 2005, by all of the income tax return preparers that are affiliated with that establishment shall be included in determining whether an income tax return preparer prepares in a calendar year beginning on or after January 1, 2005, a total of 101 or more returns required to be filed by this chapter.

(ii) For purposes of Subsection (2)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule determine the circumstances under which two or more income tax return preparers are affiliated with the same establishment.

(c) If an income tax return preparer is required by this Subsection (2) to file all qualifying returns by electronic means, the income tax return preparer shall file those qualifying returns by electronic means:

(i) beginning on January 1 of the first calendar year immediately following the day on which the income tax return preparer meets the requirements of this Subsection (2); and

(ii) for all calendar years after the calendar year described in Subsection (2)(c)(i).

(3) An income tax return preparer is not required to file a qualifying return by electronic means if:

(a) a schedule required to be attached to the qualifying return cannot be filed by electronic means;

(b) the taxpayer for which the qualifying return is prepared requests in writing that the income tax return preparer not file the qualifying return by electronic means; or

(c) subject to Subsection (4), the commission waives for one or more qualifying returns filed by the income tax return preparer the requirement imposed by this section to file the qualifying returns by electronic means.

(4) (a) For purposes of Subsection (3)(c), the commission may waive for one or more qualifying returns filed by an income tax return preparer the requirement imposed by this section to file the qualifying returns by electronic means if the income tax return preparer demonstrates to the commission that it would be an undue hardship to file the qualifying returns by electronic means.

(b) For purposes of Subsection (4)(a) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule define the circumstances that constitute an undue hardship to file a qualifying return by electronic means.

Amended by Chapter 201, 2010 General Session

59-10-515. Place and time for filing other documents.

The commission by rule shall fix the place and time for filing other documents.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-516. Filing extension -- Payment of tax -- Penalty -- Foreign residency.

(1) (a) The commission shall allow a taxpayer an extension of time for filing a return.

(b) (i) For a return filed by a taxpayer except for a partnership, the extension under Subsection (1)(a) may not exceed six months.

(ii) For a return filed by a partnership, the extension under Subsection (1)(a) may not exceed five months.

(2) (a) Except as provided in Subsection (2)(b), the commission may not impose on a taxpayer during the extension period prescribed under Subsection (1) a penalty under Section 59-1-401 if the taxpayer pays, on or before the 15th day of the fourth month following the close of the taxpayer's taxable year, the lesser of:

(i) 90% of the total tax reported on the return for the current taxable year; or

(ii) 100% of the total tax liability for the taxable year immediately preceding the current taxable year.

(b) If a taxpayer fails to meet the requirements of Subsection (2)(a), the commission may apply to the total balance due a penalty as provided in Section 59-1-401.

(3) If a federal income tax return filing is lawfully delayed pending a determination of qualification for a federal tax exemption due to residency outside of the United States, a taxpayer shall file a return within 30 days after that determination is made.

Amended by Chapter 271, 2010 General Session

59-10-517. Timely mailing treated as timely filing and paying.

(1) (a) If any return, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under authority of any provision of this chapter is, after such period or such date, delivered by United States mail to the agency, officer, or office with which such return, claim, statement, or other document is required to be filed, or to which such payment is required to be made, the date of the United States postmark stamped on the cover in which such return, claim, statement, or other document, or payment, is mailed shall be deemed to be the date of delivery or the date of payment, as the case may be.

(b) Subsection (1)(a) shall apply only if:

(i) the postmark date falls within the prescribed period or on or before the prescribed date:

(A) for the filing (including any extension granted for such filing) of the return, claim, statement, or other document; or

(B) for making the payment (including any extension granted for making such payment); and

(ii) the return, claim, statement, or other document, or payment, was, within the time prescribed in Subsection (1)(b)(i), deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the

agency, officer, or office with which the return, claim, statement, or other document is required to be filed, or to which such payment is required to be made.

(2) This section shall apply in the case of postmarks not made by the United States post office only if and to the extent provided by rules prescribed by the commission.

(3) (a) For purposes of this section, if any such return, claim, statement, or other document, or payment, is sent by United States registered mail:

(i) such registration shall be prima facie evidence that the return, claim, statement, or other document was delivered to the agency, officer, or office to which addressed; and

(ii) the date of registration shall be deemed the postmark date.

(b) The commission may provide by rule the extent to which the provisions of Subsection (3)(a) with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail.

(4) This section does not apply with respect to currency or other medium of payment unless actually received and accounted for.

(5) (a) If any deposit required to be made on or before a prescribed date is, after such date, delivered by the United States mail to the commission, such deposit shall be deemed received by the commission on the date the deposit was mailed.

(b) Subsection (5)(a) applies only if the person required to make the deposit establishes that:

(i) the date of mailing falls on or before the second day before the prescribed date for making the deposit (including any extension of time granted for making the deposit); and

(ii) the deposit was, on or before such second day, mailed in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the commission.

Amended by Chapter 324, 2010 General Session

59-10-518. Time for performance of acts when last day falls on Saturday, Sunday, or legal holiday.

(1) As used in this section, "legal holiday" means a legal holiday in this state.

(2) Subject to Section 59-10-514, if the last day prescribed under authority of this chapter for performing any act falls on Saturday, Sunday, or a legal holiday, the performance of the act shall be considered to be timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday.

(3) For purposes of this section, the last day for the performance of any act shall be determined by including any authorized extension of time.

Amended by Chapter 28, 2007 General Session

59-10-519. Place for filing returns or other documents.

When not otherwise provided for by this chapter, the commission shall by rule prescribe the place for the filing of any return, statement, or other documents, or copies

thereof, required by this chapter or rules.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-520. Time and place for paying tax shown on returns.

(1) When a return of tax is required under this chapter or rules, the person required to make such return shall, without assessment or notice and demand from the commission, pay such tax to the commission office with which the return is filed, and shall pay such tax at the time and place fixed for filing the return (determined without regard to any extension of time).

(2) In any case where a tax is required to be paid on or before a certain date, or within a certain period, any reference in this chapter to the date fixed for payment of such tax shall be deemed a reference to the last day fixed for such payment (determined without regard to any extension of time for paying the tax).

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-522. Extension of time for paying tax.

(1) The commission, except as otherwise provided by this chapter, may extend the time for payment of the amount shown, or required to be shown, on any return required under authority of this chapter (or any installment thereof), for a reasonable period not to exceed six months from the date fixed for payment thereof. Such extension may exceed six months in the cases of taxpayers who are outside the states of the union and the District of Columbia.

(2) Under rules prescribed by the commission, the time for payment of the amount determined as a deficiency may be extended for a period not to exceed 18 months from the date fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed 12 months. An extension under this subsection may be granted only where it is shown to the satisfaction of the commission that the payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer. No extension may be granted if the deficiency is due to negligence, to intentional disregard of rules, or to fraud with intent to evade tax.

(3) Extensions of time for payment of any portion of a claim for tax under this chapter, allowed in bankruptcy or receivership proceedings, which is unpaid, may be had in the same manner and subject to the same provisions and limitations as provided in Subsection (2) in respect of a deficiency in tax.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-527. Assessment authority.

(1) The commission shall make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this chapter or former chapters imposing income taxes.

(2) The assessment shall be made by recording the liability of the taxpayer in the office of the commission in accordance with rules prescribed by the commission.

The commission may, at any time within the period prescribed for assessment, make a supplemental assessment if it is ascertained that any assessment is imperfect or incomplete in any material respect.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-529. Overpayment of tax -- Credits -- Refunds.

(1) If there has been an overpayment of any tax imposed by this chapter, the amount of overpayment is credited as follows:

(a) against an income tax due from a taxpayer;

(b) against:

(i) the amount of a judgment against a taxpayer, including a final judgment or order requiring payment of a fine or of restitution to a victim under Title 77, Chapter 38a, Crime Victims Restitution Act, obtained through due process of law by an entity of state or local government; or

(ii) subject to Subsection (4)(a)(i), a child support obligation that is due or past due, as determined by the Office of Recovery Services in the Department of Human Services and after notice and an opportunity for an adjudicative proceeding, as provided in Subsection (2); or

(c) subject to Subsection (3), (5), (6), or (7), as bail, to ensure the appearance of a taxpayer before the appropriate authority to resolve an outstanding warrant against the taxpayer for which bail is due, if a court of competent jurisdiction has not approved an alternative form of payment.

(2) If a balance remains after an overpayment is credited in accordance with Subsection (1), the balance shall be refunded to the taxpayer.

(3) Bail described in Subsection (1)(c) may be applied to any fine or forfeiture:

(a) that is due and related to a warrant that is outstanding on or after February 16, 1984; and

(b) in accordance with Subsections (5) and (6).

(4) (a) The amount of an overpayment may be credited against an obligation described in Subsection (1)(b)(ii) if the Office of Recovery Services has sent written notice to the taxpayer's last-known address or the address on file under Section 62A-11-304.4, stating:

(i) the amount of child support that is due or past due as of the date of the notice or other specified date;

(ii) that any overpayment shall be applied to reduce the amount of due or past-due child support specified in the notice; and

(iii) that the taxpayer may contest the amount of past-due child support specified in the notice by filing a written request for an adjudicative proceeding with the office within 15 days of the notice being sent.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of Recovery Services shall establish rules to implement this Subsection (4), including procedures, in accordance with the other provisions of this section, to ensure:

(i) prompt reimbursement to a taxpayer of any amount of an overpayment that

was credited against a child support obligation in error; and

(ii) prompt distribution of properly credited funds to the obligee parent.

(5) The amount of an overpayment may be credited against bail described in Subsection (1)(c) if:

(a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail, appear, or otherwise satisfy the terms of a citation, summons, or court order; and

(b) a notice of intent to apply the overpayment as bail on the issued warrant has been sent to the taxpayer's current address on file with the commission.

(6) (a) (i) The commission shall deliver an overpayment applied as bail to the court that issued the warrant of arrest.

(ii) The clerk of the court is authorized to endorse the check or commission warrant of payment on behalf of the payees and deposit the money in the court treasury.

(b) (i) The court receiving an overpayment applied as bail shall order withdrawal of the warrant for arrest of the taxpayer if:

(A) the case is a case for which a personal appearance of the taxpayer is not required; and

(B) the dollar amount of the overpayment represents the full dollar amount of bail.

(ii) In a case except for a case described in Subsection (6)(b)(i):

(A) the court receiving the overpayment applied as bail is not required to order the withdrawal of the warrant of arrest of the taxpayer during the 40-day period; and

(B) the taxpayer may be arrested on the warrant.

(c) (i) If a taxpayer fails to respond to the notice required by Subsection (5)(b), or to resolve the warrant within 40 days after the notice is sent under Subsection (5)(b), the overpayment applied as bail is forfeited.

(ii) A court may issue another warrant or allow the original warrant to remain in force if:

(A) the taxpayer has not complied with an order of the court;

(B) the taxpayer has failed to appear and respond to a criminal charge for which a personal appearance is required; or

(C) the taxpayer has paid partial but not full bail in a case for which a personal appearance is not required.

(d) If the alleged violations named in a warrant are later resolved in favor of the taxpayer, the bail amount shall be remitted to the taxpayer.

(7) The fine and bail forfeiture provisions of this section apply to all warrants, fines, fees, and surcharges issued in cases charging a taxpayer with a felony, a misdemeanor, or an infraction described in this section, which are outstanding on or after February 16, 1984.

(8) If the amount allowable as a credit for tax withheld from a taxpayer exceeds the tax to which the credit relates, the excess is considered an overpayment.

(9) (a) Subject to Subsection (9)(b), a claim for credit or refund of an overpayment that is attributable to a net operating loss carry back or carry forward shall be filed within three years from the due date of the return for the taxable year of the net operating loss.

(b) The three-year period described in Subsection (9)(a) shall be extended by any extension of time provided in statute for filing the return described in Subsection (9)(a).

(10) If there is no tax liability for a period in which an amount is paid under this chapter, the amount is an overpayment.

(11) If a tax under this chapter is assessed or collected after the expiration of the applicable period of limitation, that amount is an overpayment.

(12) (a) A taxpayer may file a claim for a credit or refund of an overpayment within two years from the date a notice of change, notice of correction, or amended return is required to be filed with the commission if the taxpayer is required to:

(i) report a change or correction in income reported on the taxpayer's federal income tax return;

(ii) report a change or correction that is treated in the same manner as if the change or correction were an overpayment for federal income tax purposes; or

(iii) file an amended return with the commission.

(b) If a report or amended return is not filed within 90 days, interest on any resulting refund or credit ceases to accrue after the 90-day period.

(c) The amount of the credit or refund may not exceed the amount of the reduction in tax attributable to the federal change, correction, or items amended on the taxpayer's amended federal income tax return.

(d) Except as provided in Subsection (12)(a), this Subsection (12) does not affect the amount or the time within which a claim for credit or refund may be filed.

(13) A credit or refund may not be allowed or made if an overpayment is less than $1.

(14) In the case of an overpayment of tax by an employer under Part 4, Withholding of Tax, a refund or credit shall be made to the employer only to the extent that the amount of the overpayment is not deducted and withheld from wages under this chapter.

(15) (a) If a taxpayer that is allowed a refund under this chapter dies, the commission may make payment to the personal representative of the taxpayer's estate.

(b) If there is no personal representative of the taxpayer's estate, payment may be made to those persons who establish entitlement to inherit the property of the decedent in the proportions established in Title 75, Utah Uniform Probate Code.

(16) If an overpayment relates to a change in net income described in Subsection 59-10-536(2)(a), a credit may be allowed or a refund paid any time before the expiration of the period within which a deficiency may be assessed.

(17) An overpayment of a tax imposed by this chapter shall accrue interest at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 74, 2013 General Session

59-10-531. Claims for refund or credit.

A taxpayer that claims to be allowed a refund or credit under Section 59-10-529 may file a claim for the refund or credit with the commission within the time provided in Section 59-10-529.

Amended by Chapter 212, 2009 General Session

59-10-536. Assessment and collection of tax -- Change on federal income tax return -- Taxpayer requirement to make certain filings with the commission.

(1) (a) If, before the expiration of the time prescribed in this section for the assessment of a tax, the commission and the taxpayer agree in writing to the assessment of the tax in a time period after the time period prescribed in this section for the assessment of a tax, the tax may be assessed at any time before the expiration of the period to which the commission and the taxpayer agree.

(b) A time period that the commission and a taxpayer agree upon under Subsection (1)(a) may be extended by written agreement:

(i) between the commission and the taxpayer; and

(ii) made before the expiration of the time period that the commission and the taxpayer previously agreed upon.

(2) (a) (i) Except as provided in Subsection (2)(a)(iii), if a change is made in a taxpayer's net income on the taxpayer's federal income tax return because of an action by the federal government, the taxpayer shall file with the commission within 90 days after the date there is a final determination of the action:

(A) a copy of the taxpayer's amended federal income tax return; and

(B) an amended state income tax return that conforms with the changes made in the taxpayer's amended federal income tax return.

(ii) Except as provided in Subsection (2)(a)(iii), if a change is made in a taxpayer's net income on the taxpayer's federal income tax return because the taxpayer files an amended federal income tax return, the taxpayer shall file with the commission within 90 days after the date the taxpayer files the amended federal income tax return:

(A) a copy of the taxpayer's amended federal income tax return; and

(B) an amended state income tax return that conforms with the changes made in the taxpayer's amended federal income tax return.

(iii) A taxpayer is not required to file a return described in Subsection (2)(a)(i) or (ii) if a change in the taxpayer's federal income tax return does not increase state tax liability.

(b) (i) Subject to Subsection (2)(b)(iii), the commission may assess a deficiency in state income taxes within three years after a notification or amended federal income tax return described in Subsection (2)(a) is filed.

(ii) The amount of an assessment of tax under this Subsection (2)(b) may not exceed the amount of the increase in Utah tax attributable to the change described in Subsection (2)(a).

(iii) If a taxpayer fails to report to the commission a change specified in this Subsection (2)(b), the assessment may be made at any time within six years after the date of the change.

(3) If a deficiency in federal income tax required to be reported is attributable to a net operating loss carry back or carry forward, a deficiency in the tax imposed by this chapter may be assessed within three years from the due date of the return for the taxable year of the net operating loss.

(4) Except as provided in Subsections (1) through (3), this section does not affect the time within which or the amount for which an assessment may otherwise be made.

(5) (a) An erroneous refund shall be considered an underpayment of tax on the date the commission makes the erroneous refund.

(b) An assessment of a deficiency arising out of an erroneous refund may be made at any time within three years from the date the refund is made, except that an assessment may be made within five years from the time the refund is made if any part of the refund is induced by fraud or misrepresentation of a material fact.

(6) (a) Subject to Subsection (6)(b), if a return is required for a decedent or for the decedent's estate during the period of administration, the tax shall be assessed within 18 months after written request for the assessment:

(i) made after the return is filed; and

(ii) by:

(A) the personal representative; or

(B) another person representing the estate of the decedent.

(b) Except as otherwise provided in this section, the assessment described in Subsection (6)(a) may not be made more than three years after the time the return is filed.

(7) (a) The amount of a tax imposed by this chapter may be assessed at any time within six years after the time the return is filed if:

(i) a resident individual, resident estate, or resident trust omits from gross income as reported for federal income tax purposes an amount properly includable in adjusted gross income, which is in excess of 25% of the amount of gross income stated in the return; or

(ii) a nonresident individual, nonresident estate, or nonresident trust omits from gross income as reported for federal income tax purposes an amount of adjusted gross income derived from Utah sources determined in accordance with Section 59-10-117, properly includable in adjusted gross income, that is in excess of 25% of the amount of adjusted gross income derived from Utah sources which is reflected in the return.

(b) For purposes of Subsection (7)(a)(ii), there may not be taken into account any amount that is omitted in the return if the amount is disclosed:

(i) (A) in the return; or

(B) in a statement attached to the return; and

(ii) in a manner adequate to apprise the commission of the nature and amount of the item.

Amended by Chapter 53, 2011 General Session

59-10-537. Interest on underpayment, nonpayment, or extension of time for payment of tax.

(1) (a) Subject to the other provisions of this section, if any amount of income tax is not paid on or before the last date prescribed in this chapter for payment, interest on the amount at the rate and in the manner prescribed in Section 59-1-402 shall be paid.

(b) Interest under this Subsection (1) may not be paid if the amount of the interest is less than $1.

(c) If the time for filing of a return of tax withheld by an employer is extended, the employer shall pay interest for the period for which the extension is granted and may not charge such interest to the employee.

(2) If a deficiency or any interest or additional amount assessed in connection with an amount under Subsection (1), or a penalty in case of a delinquency provided for in Section 59-10-539 is not paid in full within 10 days from the date of notice and demand from the commission, there shall be collected as part of the tax, interest at the rate and in the manner prescribed in Section 59-1-402 from the date of the notice and demand until the entire amount of the deficiency, interest, and additional amount is paid.

(3) If the time for payment of the amount determined as the tax by the taxpayer is extended under the authority of Section 59-10-522, interest shall be collected as a part of the amount at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 212, 2009 General Session

59-10-538. Interest on overpayments.

(1) Interest shall be allowed and paid upon any overpayment in respect of any tax imposed by this chapter, at the rate and in the manner prescribed in Section 59-1-402.

(2) For purposes of this section, if any overpayment of tax imposed by this chapter results from a carryback of a net operating loss, such overpayment shall be deemed not to have been made prior to the close of the taxable year of the net operating loss which results in such carryback.

Amended by Chapter 1, 1993 Special Session 2

59-10-539. Penalties and interest.

(1) (a) In case of failure to file an income tax return and pay the tax required under this chapter on or before the date prescribed for paying the tax, including extensions, unless it is shown that the failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on the return a penalty as provided in Section 59-1-401.

(b) For purposes of Subsection (1)(a), the amount of tax required to be shown on a return shall be reduced by:

(i) the amount of any part of the tax that is paid on or before the date prescribed for payment of the tax; and

(ii) the amount of any credit against the tax that may be claimed upon the return.

(2) If any part of any deficiency in a tax imposed by this chapter is due to negligence or intentional disregard of rules, but without intent to defraud, a penalty shall be assessed, collected, and paid as provided in Section 59-1-401 in the same manner as if the deficiency were an underpayment.

(3) (a) If any part of a deficiency in a tax imposed by this chapter is due to fraud,

there shall be added to the tax a penalty as provided in Section 59-1-401.

(b) The amount described in Subsection (3)(a) shall be in lieu of any other penalty imposed by Subsection (1) or (2).

(4) (a) If any employer, without intent to evade or defeat any tax imposed by this chapter or the payment of any tax imposed by this chapter, fails to make a return and pay a tax withheld by the employer at the time required under Section 59-10-402, the employer shall be liable for the tax and shall pay the tax together with interest at the rate and in the manner prescribed in Section 59-1-402.

(b) The penalty provided in Subsection (1) and interest may not be charged to or collected from the employee by the employer.

(c) The commission has the same rights and powers for the collection of a tax, interest, and penalty against an employer described in this section as are prescribed by this chapter for the collection of tax against an individual taxpayer.

(5) (a) Any person required to collect, truthfully account for, and pay over the tax imposed by this chapter who willfully fails to collect the tax or truthfully account for and pay over the tax or willfully attempts in any manner to evade or default the tax or the payment of the tax, shall, in addition to other penalties provided by law, be liable for a penalty as provided in Section 59-1-401.

(b) A penalty described in Subsection (1) or (2) may not be imposed for any offense to which Subsection (5)(a) applies.

(6) In case of each failure to file a statement of a payment to another person, required under authority of Section 59-10-406, relating to information at source, including the duplicate statement of tax withheld on wages, on the date prescribed for filing the statement, including extensions, unless it is shown that the failure is due to reasonable cause and not to willful neglect, there shall, upon notice and demand by the commission and in the same manner as tax, be paid by the person that fails to file the statement, a penalty as provided in Section 59-1-401.

(7) (a) Except as provided in Subsection (7)(b) or (c), a person is subject to a penalty as provided in Section 59-1-401 if the person fails to do one or more of the following as required by rules prescribed by the commission under this chapter:

(i) to include the person's identifying number in any return, statement, or other document;

(ii) to furnish the person's identifying number to another person; or

(iii) to include on any return, statement, or other document made with respect to another person the identifying number of the other person.

(b) A person is not subject to a penalty under Subsection (7)(a) if it is shown that the person's failure to do an act described in Subsection (7)(a) is due to reasonable cause.

(c) If a person fails to include the person's own identification number in any return, statement, or other document, a penalty under Subsection (7)(a) may not be imposed unless the person fails to supply the person's identification number to the commission within 30 days after the commission requests the identification number.

(8) In addition to the penalties required by this section, there shall be added to a tax due interest payable at the rate and in the manner prescribed in Section 59-1-402 for underpayments.

(9) The penalties and interest required by this section shall be:

(a) paid upon notice and demand by the commission in accordance with Section 59-1-1411; and

(b) assessed, collected, and paid in accordance with Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

(10) A reference in this chapter to income tax or tax imposed by this chapter is considered to include the penalties and interest provided by this section.

(11) For purposes of Subsections (2) and (3), the amount shown as the tax by the taxpayer upon the taxpayer's return shall be taken into account in determining the amount of the deficiency only if the return is filed on or before the last day prescribed for filing of the return, including extensions.

Amended by Chapter 212, 2009 General Session

59-10-541. Violations -- Civil and criminal penalties.

(1) Every person who, without fraudulent intent, fails to make, render, sign, or verify any return, or to supply any information within the time required by or under the provisions of this chapter, is liable for a penalty as provided in Section 59-1-401.

(2) It is unlawful for any person, with intent to evade any tax, to fail to timely remit the full amount of tax required by this chapter. A violation of this section is punishable as provided in Section 59-1-401.

(3) Any person who knowingly or intentionally makes, renders, signs, or verifies any false or fraudulent return or statement or supplies any false or fraudulent information is guilty of a criminal violation as provided in Section 59-1-401.

(4) Any person who, with intent to evade any tax or any requirement of this chapter, or any lawful requirement of the commission, fails to pay the tax, or to make, render, sign, or verify any return, or to supply any information, within the time required by or under this chapter, or who, with like intent, makes, renders, signs, or verifies any false or fraudulent return or statement, or supplies any false or fraudulent information, is liable for a civil penalty as provided in Section 59-1-401, and is also guilty of a criminal violation as provided in Section 59-1-401.

Amended by Chapter 9, 2001 General Session

59-10-544. General powers and duties of the commission -- Deposit, distribution, or credit of revenues -- Refund reverts to state under certain circumstances.

(1) (a) The commission shall administer and enforce a tax imposed under this chapter for which purpose it may divide the state into districts in each of which a branch office of the commission may be maintained.

(b) A county may not be divided in forming a district.

(2) (a) The commission shall daily deposit all revenue collected or received by the commission under this chapter with the state treasurer.

(b) Subject to Sections 59-10-529 and 59-10-531, the balance of the revenue described in Subsection (2)(a) shall be periodically distributed and credited to the

Education Fund.

(c) If a refund the commission makes is not claimed within two years from the date the commission issues the refund:

(i) the refund reverts to the state to be credited to the Education Fund; and

(ii) no further claim may be made on the commission for the amount of the refund.

Amended by Chapter 212, 2009 General Session

59-10-546. Application of former law.

Nothing in this chapter applies to or affects any tax, interest, or additions to tax or penalties, imposed by or due under former Title 59, Chapter 14, in respect of taxable years commencing before January 1, 1973.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-1001. Title.

This part is known as the "Nonrefundable Tax Credit Act."

Enacted by Chapter 223, 2006 General Session

59-10-1002. Definitions.

As used in this part:

(1) (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1003(2), "claimant" means a resident or nonresident person that has state taxable income.

(b) "Claimant" does not include an estate or trust.

(2) Except as provided in Subsection 59-10-1003(2), "estate" means a nonresident estate or a resident estate that has state taxable income.

(3) "Nonrefundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or trust may:

(a) claim:

(i) as provided by statute; and

(ii) in an amount that does not exceed the claimant's, estate's, or trust's tax liability under this chapter for a taxable year; and

(b) carry forward or carry back:

(i) if allowed by statute; and

(ii) to the extent that the amount of the tax credit exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year.

(4) Except as provided in Subsection 59-10-1003(2), "trust" means a nonresident trust or a resident trust that has state taxable income.

Amended by Chapter 2, 2006 Special Session 4

59-10-1002.1. Removal of tax credit from tax return and prohibition on claiming or carrying forward a tax credit -- Conditions for removal and prohibition

on claiming or carrying forward a tax credit -- Commission reporting requirements.

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

(2) Beginning two taxable years after the requirements of Subsection (3) are met:

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

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

(3) The commission shall remove a tax credit allowed under this part from a tax return and a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit as provided in Subsection (2) if:

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

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

(4) The commission shall, on or before the November interim meeting of the year after the taxable year in which the requirements of Subsection (3) are met:

(a) report to the Revenue and Taxation Interim Committee that in accordance with this section:

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

(ii) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit; and

(b) notify each state agency required by statute to assist in the administration of the tax credit that in accordance with this section:

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

(ii) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax credit.

Renumbered and Amended by Chapter 389, 2008 General Session

59-10-1002.2. Apportionment of tax credits.

(1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1021, 59-10-1022, 59-10-1023, 59-10-1024, or 59-10-1028 may only claim an apportioned amount of the tax credit equal to:

(a) for a nonresident individual, the product of:

(i) the state income tax percentage for the nonresident individual; and

(ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

(b) for a part-year resident individual, the product of:
(i) the state income tax percentage for the part-year resident individual; and
(ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.
(2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, or 59-10-1028 may only claim an apportioned amount of the tax credit equal to the product of:
(a) the state income tax percentage for the nonresident estate or trust; and
(b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but for the apportionment requirements of this section.

Amended by Chapter 302, 2011 General Session

59-10-1003. Tax credit for tax paid by individual to another state.
(1) Except as provided in Subsection (2), a claimant, estate, or trust may claim a nonrefundable tax credit against the tax otherwise due under this chapter equal to the amount of the tax imposed:
(a) on that claimant, estate, or trust for the taxable year;
(b) by another state of the United States, the District of Columbia, or a possession of the United States; and
(c) on income:
(i) derived from sources within that other state of the United States, District of Columbia, or possession of the United States; and
(ii) if that income is also subject to tax under this chapter.
(2) A tax credit under this section may only be claimed by a:
(a) resident claimant;
(b) resident estate; or
(c) resident trust.
(3) The application of the tax credit provided under this section may not operate to reduce the tax payable under this chapter to an amount less than would have been payable were the income from the other state disregarded.
(4) The tax credit provided by this section shall be computed and claimed in accordance with rules prescribed by the commission.

Renumbered and Amended by Chapter 223, 2006 General Session

59-10-1004. Tax credit for cash contributions to sheltered workshops.
(1) For tax years beginning January 1, 1983, and thereafter, in computing the tax due the state under Section 59-10-104 there shall be a nonrefundable tax credit allowed for cash contributions made by a claimant, estate, or trust within the taxable year to nonprofit rehabilitation sheltered workshop facilities for persons with a disability operating in Utah that are certified by the Department of Human Services as a qualifying facility.
(2) The allowable tax credit is an amount equal to 50% of the aggregate amount of the cash contributions to the qualifying rehabilitation facilities, but the allowed tax

credit may not exceed $200.

(3) The amount of contribution claimed as a tax credit under this section may not also be claimed as a charitable deduction in determining net taxable income.

Renumbered and Amended by Chapter 223, 2006 General Session

59-10-1005. Tax credit for at-home parent.

(1) As used in this section:

(a) "At-home parent" means a parent:

(i) who provides full-time care at the parent's residence for one or more of the parent's own qualifying children;

(ii) who claims the qualifying child as a dependent on the parent's individual income tax return for the taxable year for which the parent claims the credit; and

(iii) if the sum of the following amounts are $3,000 or less for the taxable year for which the parent claims the credit:

(A) the total wages, tips, and other compensation listed on all of the parent's federal Forms W-2; and

(B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or Loss From Business.

(b) "Parent" means an individual who:

(i) is the biological mother or father of a qualifying child;

(ii) is the stepfather or stepmother of a qualifying child;

(iii) (A) legally adopts a qualifying child; or

(B) has a qualifying child placed in the individual's home:

(I) by a child placing agency as defined in Section 62A-4a-601; and

(II) for the purpose of legally adopting the child;

(iv) is a foster parent of a qualifying child; or

(v) is a legal guardian of a qualifying child.

(c) "Qualifying child" means a child who is no more than 12 months of age on the last day of the taxable year for which the tax credit is claimed.

(2) For taxable years beginning on or after January 1, 2000, a claimant may claim on the claimant's individual income tax return a nonrefundable tax credit of $100 for each qualifying child if:

(a) the claimant or another claimant filing a joint individual income tax return with the claimant is an at-home parent; and

(b) the adjusted gross income of all of the claimants filing the individual income tax return is less than or equal to $50,000.

(3) A claimant may not carry forward or carry back a tax credit authorized by this section.

(4) It is the intent of the Legislature that for fiscal years beginning on or after fiscal year 2000-01, the Legislature appropriate from the General Fund a sufficient amount to replace Education Fund revenues expended to provide for the tax credit under this section.

Amended by Chapter 122, 2007 General Session

59-10-1006. Historic preservation tax credit.

(1) (a) For tax years beginning January 1, 1993, and thereafter, there is allowed to a claimant, estate, or trust, as a nonrefundable tax credit against the income tax due, an amount equal to 20% of qualified rehabilitation expenditures, costing more than $10,000, incurred in connection with any residential certified historic building. When qualifying expenditures of more than $10,000 are incurred, the tax credit allowed by this section shall apply to the full amount of expenditures.

(b) All rehabilitation work to which the tax credit may be applied shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can provide corrective comments to the claimant, estate, or trust in order to preserve the historical qualities of the building.

(c) Any amount of tax credit remaining may be carried forward to each of the five taxable years following the qualified expenditures.

(d) The commission, in consultation with the Division of State History, shall promulgate rules to implement this section.

(2) As used in this section:

(a) "Certified historic building" means a building that is listed on the National Register of Historic Places within three years of taking the credit under this section or that is located in a National Register Historic District and the building has been designated by the Division of State History as being of significance to the district.

(b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to the rehabilitation and restoration of the physical elements of the building, including the historic decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing systems to applicable codes.

(ii) "Qualified rehabilitation expenditures" does not include expenditures related to:

(A) a claimant's, estate's, or trust's personal labor;

(B) cost of acquisition of the property;

(C) any expenditure attributable to the enlargement of an existing building;

(D) rehabilitation of a certified historic building without the approval required in Subsection (1)(b); or

(E) any expenditure attributable to landscaping and other site features, outbuildings, garages, and related features.

(c) "Residential" means a building used for residential use, either owner occupied or income producing.

Renumbered and Amended by Chapter 223, 2006 General Session

59-10-1007. Recycling market development zones tax credit.

(1) For taxable years beginning on or after January 1, 1996, a claimant, estate, or trust in a recycling market development zone as defined in Section 63M-1-1102 may claim a nonrefundable tax credit as provided in this section.

(a) (i) There shall be allowed a tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

(A) commercial composting; or

(B) manufacturing facilities or plant units that:

(I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(II) reduce or reuse postconsumer waste material.

(ii) The Governor's Office of Economic Development shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:

(A) on a form provided by the commission; and

(B) before a claimant, estate, or trust is allowed a tax credit under this section.

(iii) The Governor's Office of Economic Development shall provide a claimant, estate, or trust seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

(iv) The claimant, estate, or trust described in Subsection (1)(a)(iii) shall retain a copy of the form received under Subsection (1)(a)(iii).

(b) There shall be allowed a tax credit equal to 20% of net expenditures up to $10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of $2,000.

(2) The total tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the claimant, estate, or trust prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried forward against the claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable years until the total tax credit amount is used.

(b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or trust's tax return under this chapter within three years are forfeited.

(4) The commission shall make rules governing what information shall be filed with the commission to verify the entitlement to and amount of a tax credit.

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63M-1-413.

(b) For a taxable year other than a taxable year during which the claimant, estate, or trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a claimant, estate, or trust may claim or carry forward a tax credit described in Subsection (1)(a):

(i) if the claimant, estate, or trust may claim or carry forward the tax credit in accordance with Subsections (1) and (2); and

(ii) subject to Subsections (3) and (4).

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63M-1-413.

(7) A claimant, estate, or trust may not claim or carry forward a tax credit available under this section for a taxable year during which the claimant, estate, or trust has claimed the targeted business income tax credit available under Section 63M-1-504.

Amended by Chapter 382, 2008 General Session

59-10-1009 (Superseded 01/01/15). Definitions -- Cleaner burning fuels tax credit.

(1) As used in this section:

(a) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in:

(i) bin 2 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6); or

(ii) for a new qualified plug-in electric drive motor vehicle, as defined in Section 30D, Internal Revenue Code, bin 4 in Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(b) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air Conservation Act.

(c) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle; and

(B) as a result of the installation of conversion equipment on the motor vehicle, the motor vehicle has reduced emissions; or

(ii) special mobile equipment on which conversion equipment has been installed has reduced emissions.

(d) "Clean fuel grant" means a grant a claimant, estate, or trust receives under Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act, for reimbursement of a portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.

(e) "Conversion equipment" means equipment referred to in Subsection (2)(c) or (d).

(f) "OEM vehicle" has the same meaning as in Section 19-1-402.

(g) "Original purchase" means the purchase of a vehicle that has never been titled or registered and has been driven less than 7,500 miles.

(h) "Qualifying electric or hybrid vehicle" means a vehicle that:

(i) meets air quality standards;

(ii) is not fueled by natural gas;

(iii) is fueled by:

(A) electricity only; or

(B) a combination of electricity and diesel fuel, gasoline, a mixture of gasoline and ethanol, or propane; and

(iv) is an OEM vehicle except that the vehicle is fueled by a fuel described in

Subsection (1)(h)(iii).

(i) "Reduced emissions" means:

(i) for purposes of a motor vehicle on which conversion equipment has been installed, that the motor vehicle's emissions of regulated pollutants, when operating on a fuel listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of the conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board;

(B) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway Vehicles and Engines, using all fuel the motor vehicle is capable of using;

(C) for a retrofit natural gas vehicle that is retrofit in accordance with Section 19-1-406, testing that as a result of the retrofit, the retrofit natural gas vehicle satisfies the emission standards applicable under Section 19-1-406; or

(D) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) for purposes of special mobile equipment on which conversion equipment has been installed, that the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(d)(i) or (ii), is less than the emissions were before the installation of conversion equipment, as demonstrated by:

(A) certification of the conversion equipment by the federal Environmental Protection Agency or by a state that has certification standards recognized by the board; or

(B) any other test or standard recognized by board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(j) "Special mobile equipment":

(i) means any mobile equipment or vehicle not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For the taxable year beginning on or after January 1, 2014, but beginning on or before December 31, 2014, a claimant, estate, or trust may claim a nonrefundable tax credit against tax otherwise due under this chapter in an amount equal to:

(a) $605 for the original purchase of a new qualifying electric or hybrid vehicle that is registered in this state;

(b) for the purchase of a vehicle fueled by natural gas that is registered in this state, the lesser of:

(i) $2,500; or

(ii) 35% of the purchase price of the vehicle;

(c) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in this state minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of $2,500 per vehicle, if the motor vehicle:

(i) is to be fueled by propane, natural gas, or electricity;

(ii) is to be fueled by other fuel the board determines annually on or before July

1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(c)(i); or

(iii) will meet the federal clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

(d) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of $1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(d)(i); or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed.

(3) A claimant, estate, or trust shall provide proof of the purchase of an item for which a tax credit is allowed under this section by:

(a) providing proof to the board in the form the board requires by rule;

(b) receiving a written statement from the board acknowledging receipt of the proof; and

(c) retaining the written statement described in Subsection (3)(b).

(4) Except as provided by Subsection (5), the tax credit under this section is allowed only:

(a) against a tax owed under this chapter in the taxable year by the claimant, estate, or trust;

(b) for the taxable year in which an item described in Subsection (2)(a) or (b) is purchased or conversion equipment described in Subsection (2)(c) or (d) is installed; and

(c) once per vehicle.

(5) If the amount of a tax credit claimed by a claimant, estate, or trust under this section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

(6) In accordance with any rules prescribed by the commission under Subsection (7), the commission shall transfer at least annually from the General Fund into the Education Fund the amount by which the amount of tax credit claimed under this section for a taxable year exceeds $500,000.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Education Fund as required by Subsection (6).

Amended by Chapter 184, 2013 General Session

59-10-1010. Utah low-income housing tax credit.

(1) As used in this section:

(a) "Allocation certificate" means:

(i) the certificate prescribed by the commission and issued by the Utah Housing Corporation to each claimant, estate, or trust that specifies the percentage of the annual federal low-income housing credit that each claimant, estate, or trust may take as an annual tax credit against a tax imposed by this chapter; or

(ii) a copy of the allocation certificate that the housing sponsor provides to the claimant, estate, or trust.

(b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Federal low-income housing credit" means the low-income housing credit under Section 42, Internal Revenue Code.

(d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership in the case of a partnership, a corporation in the case of an S corporation, or a limited liability company in the case of a limited liability company.

(e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

(f) "Special low-income housing tax credit certificate" means a certificate:

(i) prescribed by the commission;

(ii) that a housing sponsor issues to a claimant, estate, or trust for a taxable year; and

(iii) that specifies the amount of a tax credit a claimant, estate, or trust may claim under this section if the claimant, estate, or trust meets the requirements of this section.

(2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a nonrefundable tax credit against taxes otherwise due under this chapter for a claimant, estate, or trust issued an allocation certificate.

(b) The tax credit shall be in an amount equal to the greater of the amount of:

(i) federal low-income housing credit to which the claimant, estate, or trust is allowed during that year multiplied by the percentage specified in an allocation certificate issued by the Utah Housing Corporation; or

(ii) tax credit specified in the special low-income housing tax credit certificate that the housing sponsor issues to the claimant, estate, or trust as provided in Subsection (2)(c).

(c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

(i) the total amount of low-income housing tax credit under this section that:

(A) a housing sponsor is allowed for a building; and

(B) all of the claimants, estates, and trusts may claim with respect to the building if the claimants, estates, and trusts meet the requirements of this section; and

(ii) the percentage of tax credit a claimant, estate, or trust may claim:

(A) under this section if the claimant, estate, or trust meets the requirements of this section; and

(B) as provided in the agreement between the claimant, estate, or trust and the housing sponsor.

(d) (i) For the calendar year beginning on January 1, 1995, through the calendar year beginning on January 1, 2015, the aggregate annual tax credit that the Utah Housing Corporation may allocate for the credit period described in Section 42(f),

Internal Revenue Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(3) (a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

(b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in the residential housing development of which the building is a part;

(ii) the level of area median income being served by the development;

(iii) the need for the tax credit for the economic feasibility of the development; and

(iv) the extended period for which the development commits to remain as affordable housing.

(4) (a) The following may apply to the Utah Housing Corporation for a tax credit under this section:

(i) any housing sponsor that is a claimant, estate, or trust if that housing sponsor has received an allocation of the federal low-income housing credit; or

(ii) any applicant for an allocation of the federal low-income housing credit if that applicant is a claimant, estate, or trust.

(b) The Utah Housing Corporation may not require fees for applications of the tax credit under this section in addition to those fees required for applications for the federal low-income housing credit.

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the Utah Housing Corporation.

(b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors by issuing an allocation certificate to qualifying housing sponsors.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed percentage of the federal low-income housing credit as determined by the Utah Housing Corporation.

(c) The percentage specified in an allocation certificate may not exceed 100% of the federal low-income housing credit.

(6) A housing sponsor shall provide a copy of the allocation certificate to each claimant, estate, or trust that is issued a special low-income housing tax credit certificate.

(7) (a) A housing sponsor shall provide to the commission a list of:

(i) the claimants, estates, and trusts issued a special low-income housing tax credit certificate; and

(ii) for each claimant, estate, or trust described in Subsection (7)(a)(i), the amount of tax credit listed on the special low-income housing tax credit certificate.

(b) A housing sponsor shall provide the list required by Subsection (7)(a):

(i) to the commission;

(ii) on a form provided by the commission; and

(iii) with the housing sponsor's tax return for each taxable year for which the housing sponsor issues a special low-income housing tax credit certificate described in this Subsection (7).

(8) (a) All elections made by the claimant, estate, or trust pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a claimant, estate, or trust is required to recapture a portion of any federal low-income housing credit, the claimant, estate, or trust shall also be required to recapture a portion of any state tax credits authorized by this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing credit amount subject to recapture.

(9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the Utah Housing Corporation in any year may be carried over for allocation in the subsequent year.

(10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the tax credit exceeds the tax, may be carried back three years or may be carried forward five years as a tax credit.

(b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

(i) before the application of the tax credits earned in the current year; and

(ii) on a first-earned first-used basis.

(11) Any tax credit taken in this section may be subject to an annual audit by the commission.

(12) The Utah Housing Corporation shall provide an annual report to the Revenue and Taxation Interim Committee which shall include at least:

(a) the purpose and effectiveness of the tax credits; and

(b) the benefits of the tax credits to the state.

(13) The commission may, in consultation with the Utah Housing Corporation, promulgate rules to implement this section.

Renumbered and Amended by Chapter 223, 2006 General Session

59-10-1011. Tutoring tax credits for dependents with a disability.

(1) For purposes of this section:

(a) "Dependent with a disability" means a person who:

(i) has a disability under Section 53A-15-301;

(ii) attends a public or private kindergarten, elementary, or secondary school; and

(iii) is eligible to receive disability program money under Section 53A-17a-111.

(b) (i) "Tutoring" means educational services:

(A) approved by an individual education plan team;

(B) provided to a dependent with a disability; and

(C) that supplement classroom instruction the dependent with a disability described in Subsection (1)(b)(i)(B) receives at a public or private kindergarten, elementary, or secondary school in the state.

(ii) "Tutoring" does not include:

(A) purchases of instructional books and material; or

(B) payments for attendance at extracurricular activities including sporting events, musical or dramatic events, speech activities, or driver education.

(2) (a) Except as provided in Subsection (2)(b), for taxable years beginning on or after January 1, 1996, but beginning on or before December 31, 2009, a claimant allowed to claim a dependent with a disability as a dependent under this section may claim for each dependent with a disability a nonrefundable tutoring tax credit in an amount equal to 25% of the costs paid by the claimant for tutoring the dependent with a disability.

(b) The tutoring tax credit under Subsection (2)(a) may not exceed $100.

(3) The tutoring tax credit under Subsection (2) may be claimed by a claimant only in the taxable year in which the claimant pays the tutoring costs for which the tax credit is claimed.

Amended by Chapter 366, 2011 General Session

59-10-1012. Tax credits for research activities conducted in the state -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

(1) (a) A claimant, estate, or trust meeting the requirements of this section may claim the following nonrefundable tax credits:

(i) a research tax credit of 5% of the claimant's, estate's, or trust's qualified research expenses for the current taxable year that exceed the base amount provided for under Subsection (3);

(ii) a tax credit for a payment to a qualified organization for basic research as provided in Section 41(e), Internal Revenue Code of 5% for the current taxable year that exceed the base amount provided for under Subsection (3); and

(iii) a tax credit equal to 7.5% of the claimant's, estate's, or trust's qualified research expenses for the current taxable year.

(b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under:

(i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the claimant, estate, or trust incurs the qualified research expenses; or

(ii) Subsection (1)(a)(ii), for the taxable year for which the claimant, estate, or trust makes the payment to the qualified organization.

(c) The tax credits provided for in this section do not include the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

(2) Except as specifically provided for in this section:

(a) the tax credits authorized under Subsection (1) shall be calculated as provided in Section 41, Internal Revenue Code; and

(b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the tax credits authorized under Subsection (1).

(3) For purposes of this section:

(a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:

(i) the base amount does not include the calculation of the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code;

(ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts attributable to sources within this state as provided in Section 59-10-118; and

(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the base amount, a claimant, estate, or trust:

(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B), Internal Revenue Code, regardless of whether the claimant, estate, or trust meets the requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and

(B) may not revoke an election to be treated as a start-up company under Subsection (3)(a)(iii)(A);

(b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state;

(c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state;

(d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal Revenue Code, except that the term includes only:

(i) in-house research expenses incurred in this state; and

(ii) contract research expenses incurred in this state; and

(e) a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

(4) (a) If the amount of a tax credit claimed by a claimant, estate, or trust under Subsection (1)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

(i) may be carried forward for a period that does not exceed the next 14 taxable years; and

(ii) may not be carried back to a taxable year preceding the current taxable year.

(b) A claimant, estate, or trust may not carry forward the tax credit allowed by Subsection (1)(a)(iii).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that amounts paid to the qualified organizations are for basic research conducted in this state.

(6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal

becomes effective.

(7) (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (6) a modification or repeal of a provision of Section 41, Internal Revenue Code.

(b) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.

(c) The Revenue and Taxation Interim Committee shall address in a review under this section:

(i) the cost of the tax credits provided for in this section;

(ii) the purpose and effectiveness of the tax credits provided for in this section;

(iii) whether the tax credits provided for in this section benefit the state; and

(iv) whether the tax credits provided for in this section should be:

(A) continued;

(B) modified; or

(C) repealed.

(d) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall report its findings to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits.

Amended by Chapter 405, 2012 General Session

59-10-1013. Tax credits for machinery, equipment, or both primarily used for conducting qualified research or basic research -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

(1) As used in this section:

(a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state.

(b) "Equipment" includes:

(i) a computer;

(ii) computer equipment; and

(iii) computer software.

(c) "Purchase price":

(i) includes the cost of installing an item of machinery or equipment; and

(ii) does not include a tax imposed under Chapter 12, Sales and Use Tax Act, on an item of machinery or equipment.

(d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

(e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state.

(2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on

or after January 1, 1999, but beginning before December 31, 2010, a claimant, estate, or trust meeting the requirements of this section may claim the following nonrefundable tax credits:

(i) a tax credit of 6% of the purchase price of machinery, equipment, or both:

(A) purchased by the claimant, estate, or trust during the taxable year;

(B) that is subject to a tax under Chapter 12, Sales and Use Tax Act; and

(C) that is primarily used to conduct qualified research in this state; and

(ii) a tax credit of 6% of the purchase price paid by the claimant, estate, or trust for machinery, equipment, or both:

(A) purchased by the claimant, estate, or trust during the taxable year;

(B) that is subject to a tax under Chapter 12, Sales and Use Tax Act;

(C) that is donated to a qualified organization; and

(D) that is primarily used to conduct basic research in this state.

(b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under this section for the taxable year for which the claimant, estate, or trust purchases the machinery, equipment, or both.

(c) If a claimant, estate, or trust qualifies for a tax credit under Subsection (2)(a) for a purchase of machinery, equipment, or both, the claimant, estate, or trust may not claim the tax credit or carry the tax credit forward if the machinery, equipment, or both, is primarily used to conduct qualified research in the state for a time period that is less than 12 consecutive months.

(3) Notwithstanding Section 41(h), Internal Revenue Code, a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.

(4) If the amount of a tax credit claimed by a claimant, estate, or trust under this section exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:

(a) may be carried forward for a period that does not exceed the next 14 taxable years; and

(b) may not be carried back to a taxable year preceding the current taxable year.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that machinery, equipment, or both provided to the qualified organization is to be primarily used to conduct basic research in this state.

(6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.

(7) (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (6) a modification or repeal of a provision of Section 41, Internal Revenue Code.

(b) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim

Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.

(c) The Revenue and Taxation Interim Committee shall address in a review under this section the:

(i) cost of the tax credits provided for in this section;

(ii) purpose and effectiveness of the tax credits provided for in this section;

(iii) whether the tax credits provided for in this section benefit the state; and

(iv) whether the tax credits provided for in this section should be:

(A) continued;

(B) modified; or

(C) repealed.

(d) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall report its findings to the Legislative Management Committee on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the tax credits.

Amended by Chapter 384, 2011 General Session

59-10-1014. Renewable energy systems tax credit -- Definitions -- Limitations -- Certification -- Rulemaking authority.

(1) As used in this part:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment for use in converting material into biomass energy, as defined in Section 59-12-102, and transporting that energy by separate apparatus to the point of use or storage.

(c) "Business entity" means any entity under which business is conducted or transacted.

(d) "Direct-use geothermal system" means a system of apparatus and equipment enabling the direct use of thermal energy, generally between 100 and 300 degrees Fahrenheit, that is contained in the earth to meet energy needs, including heating a building, an industrial process, and aquaculture.

(e) "Geothermal electricity" means energy contained in heat that continuously flows outward from the earth that is used as a sole source of energy to produce electricity.

(f) "Geothermal heat-pump system" means a system of apparatus and equipment enabling the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit to help meet heating and cooling needs of a structure.

(g) "Hydroenergy system" means a system of apparatus and equipment capable

of intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.

(h) "Office" means the Office of Energy Development created in Section 63M-4-401.

(i) "Passive solar system":

(i) means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and

(ii) includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(j) "Residential energy system" means any active solar, passive solar, biomass, direct-use geothermal, geothermal heat-pump system, wind, or hydroenergy system used to supply energy to or for any residential unit.

(k) "Residential unit" means any house, condominium, apartment, or similar dwelling unit that serves as a dwelling for a person, group of persons, or a family but does not include property subject to a fee under:

(i) Section 59-2-404;

(ii) Section 59-2-405;

(iii) Section 59-2-405.1;

(iv) Section 59-2-405.2; or

(v) Section 59-2-405.3.

(l) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) For taxable years beginning on or after January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit as provided in this section if:

(a) a claimant, estate, or trust that is not a business entity purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy for the claimant's, estate's, or trust's residential unit in the state; or

(b) (i) a claimant, estate, or trust that is a business entity sells a residential unit to another claimant, estate, or trust that is not a business entity before making a claim for a tax credit under Subsection (6) or Section 59-7-614; and

(ii) the claimant, estate, or trust that is a business entity assigns its right to the tax credit to the claimant, estate, or trust that is not a business entity as provided in Subsection (6)(c) or Subsection 59-7-614(2)(a)(iii).

(3) (a) The tax credit described in Subsection (2) is equal to 25% of the reasonable costs of each residential energy system, including installation costs, against any income tax liability of the claimant, estate, or trust under this chapter for the taxable year in which the residential energy system is completed and placed in service.

(b) The total amount of each tax credit under this section may not exceed $2,000 per residential unit.

(c) The tax credit under this section is allowed for any residential energy system

completed and placed in service on or after January 1, 2007.

(4) (a) The tax credit provided for in this section shall be claimed in the return for the taxable year in which the residential energy system is completed and placed in service.

(b) Additional residential energy systems or parts of residential energy systems may be similarly claimed in returns for subsequent taxable years as long as the total amount claimed does not exceed $2,000 per residential unit.

(c) If the amount of the tax credit under this section exceeds the income tax liability of the claimant, estate, or trust claiming the tax credit under this section for that taxable year, then the amount not used may be carried over for a period that does not exceed the next four taxable years.

(5) (a) A claimant, estate, or trust that is not a business entity that leases a residential energy system installed on a residential unit is eligible for the residential energy tax credit if that claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(b) Only the principal recovery portion of the lease payments, which is the cost incurred by the claimant, estate, or trust in acquiring the residential energy system excluding interest charges and maintenance expenses, is eligible for the tax credits.

(c) A claimant, estate, or trust described in this Subsection (5) may use the tax credits for a period that does not exceed seven years from the initiation of the lease.

(6) (a) A claimant, estate, or trust that is a business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the claimant, estate, or trust that is a business entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this Subsection (6).

(b) (i) For taxable years beginning on or after January 1, 2007, a claimant, estate, or trust that is a business entity is entitled to a nonrefundable tax credit equal to 25% of the reasonable costs of a residential energy system installed with respect to each residential unit it owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(ii) The total amount of the tax credit under this Subsection (6) may not exceed $2,000 per residential unit.

(iii) The tax credit under this Subsection (6) is allowed for any residential energy system completed and placed in service on or after January 1, 2007.

(c) If a claimant, estate, or trust that is a business entity sells a residential unit to a claimant, estate, or trust that is not a business entity before making a claim for the tax credit under this Subsection (6), the claimant, estate, or trust that is a business entity may:

(i) assign its right to this tax credit to the claimant, estate, or trust that is not a business entity; and

(ii) if the claimant, estate, or trust that is a business entity assigns its right to the tax credit to a claimant, estate, or trust that is not a business entity under Subsection (6)(c)(i), the claimant, estate, or trust that is not a business entity may claim the tax credit as if that claimant, estate, or trust that is not a business entity had completed or

participated in the costs of the residential energy system under this section.

(7) (a) A tax credit under this section may be claimed for the taxable year in which the residential energy system is completed and placed in service.

(b) Additional residential energy systems or parts of residential energy systems may be claimed for subsequent years.

(c) If the amount of a tax credit under this section exceeds the tax liability of the claimant, estate, or trust claiming the tax credit under this section for a taxable year, the amount of the tax credit exceeding the tax liability may be carried over for a period which does not exceed the next four taxable years.

(8) (a) Except as provided in Subsection (8)(b), tax credits provided for under this section are in addition to any tax credits provided under the laws or rules and regulations of the United States.

(b) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

(9) (a) The office may set standards for residential energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(b) The office may set standards for residential and commercial energy systems that establish the reasonable costs of an energy system, as used in Subsections (3)(a) and (6)(b)(i), as an amount per unit of energy production.

(c) A tax credit may not be taken under this section until the office has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

(10) The office and the commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.

(11) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the credit should be continued, modified, or repealed.

(b) The Revenue and Taxation Interim Committee's report under Subsection (11)(a) shall include information concerning the cost of the credit, the purpose and effectiveness of the credit, and the state's benefit from the credit.

Amended by Chapter 37, 2012 General Session

59-10-1015. Definitions -- Tax credit for live organ donation expenses -- Rulemaking authority.

(1) As used in this section:

(a) "human organ" means:

(i) human bone marrow; or

(ii) any part of a human:

(A) intestine;

(B) kidney;
(C) liver;
(D) lung; or
(E) pancreas;
(b) "live organ donation" means that an individual who is living donates one or more of that individual's human organs:
(i) to another human; and
(ii) to be transplanted:
(A) using a medical procedure; and
(B) to the body of the other human; and
(c) (i) "live organ donation expenses" means the total amount of expenses:
(A) incurred by a claimant; and
(B) that:
(I) are not reimbursed to that claimant by any person;
(II) are directly related to a live organ donation by:
(Aa) the claimant; or
(Bb) another individual that the claimant is allowed to claim as a dependent in accordance with Section 151, Internal Revenue Code; and
(III) are for:
(Aa) travel;
(Bb) lodging; or
(Cc) a lost wage; and
(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "lost wage."
(2) For taxable years beginning on or after January 1, 2005, a claimant may claim a nonrefundable tax credit:
(a) as provided in this section;
(b) against taxes otherwise due under this chapter;
(c) for live organ donation expenses incurred during the taxable year for which the live organ donation occurs; and
(d) in an amount equal to the lesser of:
(i) the actual amount of the live organ donation expenses; or
(ii) $10,000.
(3) If the amount of a tax credit under this section exceeds a claimant's tax liability under this chapter for a taxable year, the amount of the tax credit that exceeds the claimant's tax liability may be carried forward for a period that does not exceed the next five taxable years.

Amended by Chapter 382, 2008 General Session

59-10-1017. Utah Educational Savings Plan tax credit.
(1) As used in this section:
(a) "Account owner" is as defined in Section 53B-8a-102.
(b) "Higher education costs" is as defined in Section 53B-8a-102.
(c) "Maximum amount of a qualified investment for the taxable year" means, for

a taxable year:

(i) for a claimant, estate, or trust that is an account owner, if that claimant, estate, or trust is other than husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(ii); and

(B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g); or

(ii) for claimants who are husband and wife account owners who file a single return jointly, the maximum amount of a qualified investment:

(A) listed in Subsection 53B-8a-106(1)(e)(iii); and

(B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g).

(d) "Qualified investment" is as defined in Section 53B-8a-102.

(2) Except as provided in Section 59-10-1002.2, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax credit equal to the product of:

(a) the lesser of:

(i) the amount of a qualified investment the claimant, estate, or trust:

(A) makes during the taxable year; and

(B) does not deduct:

(I) for a claimant, on the claimant's federal individual income tax return; or

(II) for an estate or trust, on the estate's or trust's federal income tax return for estates and trusts; or

(ii) the maximum amount of a qualified investment for the taxable year if the amount described in Subsection (2)(a)(i) is greater than the maximum amount of a qualified investment for the taxable year; and

(b) 5%.

(3) A tax credit under this section may not be carried forward or carried back.

Amended by Chapter 6, 2010 General Session

59-10-1018. Definitions -- Nonrefundable taxpayer tax credits.

(1) As used in this section:

(a) "Dependent adult with a disability" means an individual who:

(i) a claimant claims as a dependent under Section 151, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year;

(ii) is not the claimant or the claimant's spouse; and

(iii) is:

(A) 18 years of age or older;

(B) eligible for services under Title 62A, Chapter 5, Services for People with Disabilities; and

(C) not enrolled in an education program for students with disabilities that is authorized under Section 53A-15-301.

(b) "Dependent child with a disability" means an individual 21 years of age or younger who:

(i) a claimant claims as a dependent under Section 151, Internal Revenue

Code, on the claimant's federal individual income tax return for the taxable year;

(ii) is not the claimant or the claimant's spouse; and

(iii) is:

(A) an eligible student with a disability; or

(B) identified under guidelines of the Department of Health as qualified for Early Intervention or Infant Development Services.

(c) "Eligible student with a disability" means an individual who is:

(i) diagnosed by a school district representative under rules the State Board of Education adopts in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as having a disability classified as autism, deafness, preschool developmental delay, dual sensory impairment, hearing impairment, intellectual disability, multidisability, orthopedic impairment, other health impairment, traumatic brain injury, or visual impairment;

(ii) not receiving residential services from the Division of Services for People with Disabilities created under Section 62A-5-102 or a school established under Title 53A, Chapter 25b, Utah Schools for the Deaf and the Blind; and

(iii) (A) enrolled in an education program for students with disabilities that is authorized under Section 53A-15-301; or

(B) a recipient of a scholarship awarded under Title 53A, Chapter 1a, Part 7, Carson Smith Scholarships for Students with Special Needs Act.

(d) "Head of household filing status" means a head of household, as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

(e) "Joint filing status" means:

(i) a husband and wife who file a single return jointly under this chapter for a taxable year; or

(ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.

(f) "Single filing status" means:

(i) a single individual who files a single federal individual income tax return for the taxable year; or

(ii) a married individual who:

(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(B) files a single federal individual income tax return for the taxable year.

(2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the sum of:

(a) (i) for a claimant that deducts the standard deduction on the claimant's federal individual income tax return for the taxable year, 6% of the amount the claimant deducts as allowed as the standard deduction on the claimant's federal individual income tax return for that taxable year; or

(ii) for a claimant that itemizes deductions on the claimant's federal individual income tax return for the taxable year, the product of:

(A) the difference between:

(I) the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year; and

(II) any amount of state or local income taxes the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year; and

(B) 6%; and

(b) the product of:

(i) 75% of the total amount the claimant deducts as allowed as a personal exemption deduction on the claimant's federal individual income tax return for that taxable year, plus an additional 75% of the amount the claimant deducts as allowed as a personal exemption deduction on the claimant's federal individual income tax return for that taxable year with respect to each dependent adult with a disability or dependent child with a disability; and

(ii) 6%.

(3) A claimant may not carry forward or carry back a tax credit under this section.

(4) The tax credit allowed by Subsection (2) shall be reduced by $.013 for each dollar by which a claimant's state taxable income exceeds:

(a) for a claimant who has a single filing status, $12,000;

(b) for a claimant who has a head of household filing status, $18,000; or

(c) for a claimant who has a joint filing status, $24,000.

(5) (a) For taxable years beginning on or after January 1, 2009, the commission shall increase or decrease the following dollar amounts by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2007:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) the dollar amount listed in Subsection (4)(b).

(b) After the commission increases or decreases the dollar amounts listed in Subsection (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the nearest whole dollar.

(c) After the commission rounds the dollar amounts as required by Subsection (5)(b), the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that the dollar amount listed in Subsection (4)(c) is equal to the product of:

(i) the dollar amount listed in Subsection (4)(a); and

(ii) two.

(d) For purposes of Subsection (5)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

Amended by Chapter 295, 2012 General Session

59-10-1019. Definitions -- Nonrefundable retirement tax credits.

(1) As used in this section:

(a) "Eligible age 65 or older retiree" means a claimant, regardless of whether

that claimant is retired, who:

(i) is 65 years of age or older; and

(ii) was born on or before December 31, 1952.

(b) (i) "Eligible retirement income" means income received by an eligible under age 65 retiree as a pension or annuity if that pension or annuity is:

(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible under age 65 retiree; and

(B) (I) paid from an annuity contract purchased by an employer under a plan that meets the requirements of Section 404(a)(2), Internal Revenue Code;

(II) purchased by an employee under a plan that meets the requirements of Section 408, Internal Revenue Code; or

(III) paid by:

(Aa) the United States;

(Bb) a state or a political subdivision of a state; or

(Cc) the District of Columbia.

(ii) "Eligible retirement income" does not include amounts received by the spouse of a living eligible under age 65 retiree because of the eligible under age 65 retiree's having been employed in a community property state.

(c) "Eligible under age 65 retiree" means a claimant, regardless of whether that claimant is retired, who:

(i) is younger than 65 years of age;

(ii) was born on or before December 31, 1952; and

(iii) has eligible retirement income for the taxable year for which a tax credit is claimed under this section.

(d) "Head of household filing status" is as defined in Section 59-10-1018.

(e) "Joint filing status" is as defined in Section 59-10-1018.

(f) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(g) "Modified adjusted gross income" means the sum of an eligible age 65 or older retiree's or eligible under age 65 retiree's:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(g)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(g)(i).

(h) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(2) Except as provided in Section 59-10-1002.2 and subject to Subsections (3) through (6):

(a) each eligible age 65 or older retiree may claim a nonrefundable tax credit of $450 against taxes otherwise due under this part; or

(b) each eligible under age 65 retiree may claim a nonrefundable tax credit

against taxes otherwise due under this part in an amount equal to the lesser of:

(i) $288; or

(ii) the product of:

(A) the eligible under age 65 retiree's eligible retirement income for the taxable year for which the eligible under age 65 retiree claims a tax credit under this section; and

(B) 6%.

(3) A tax credit under this section may not be carried forward or carried back.

(4) The sum of the tax credits allowed by Subsection (2) claimed on one return filed under this part shall be reduced by $.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, $16,000;

(b) for a federal individual income tax return that is allowed a single filing status, $25,000;

(c) for a federal individual income tax return that is allowed a head of household filing status, $32,000; or

(d) for a return under this chapter that is allowed a joint filing status, $32,000.

(5) For purposes of determining the ownership of items of retirement income under this section, common law doctrine shall be applied in all cases even though some items of retirement income may have originated from service or investments in a community property state.

Renumbered and Amended by Chapter 389, 2008 General Session

59-10-1020. Nonrefundable estate or trust tax credit.

(1) For taxable years beginning on or after January 1, 2008, an estate or trust may claim a nonrefundable tax credit against taxes otherwise due under Part 2, Trusts and Estates, equal to the product of:

(a) the sum of:

(i) the amount that a resident or nonresident estate or trust deducts under Section 163, Internal Revenue Code, for interest paid or accrued, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(ii) the amount that a resident or nonresident estate or trust deducts under Section 164, Internal Revenue Code, for taxes paid or accrued other than for any amount paid or accrued for state or local income taxes for the taxable year, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(iii) the amount that a resident or nonresident estate or trust other than a qualified nongrantor charitable lead trust deducts under Section 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

(iv) subject to Subsection (3), the amount that a resident or nonresident estate

or trust deducts as an attorney, accountant, or return preparer fee, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(v) subject to Subsection (3), the amount that a resident or nonresident estate or trust deducts as an other deduction or miscellaneous itemized deduction, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and

(b) 6%.

(2) An estate or trust may not carry forward or carry back a tax credit under this section.

(3) The tax credit allowed by Subsection (1) shall be reduced by $.013 for each dollar by which an estate's or trust's taxable income exceeds $12,000.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) for purposes of Subsection (1)(a)(iv), the commission may make rules for determining what constitutes an attorney, accountant, or return preparer fee if that attorney, accountant, or return preparer fee is consistent with an attorney, accountant, or return preparer fee that may be deducted on a federal income tax return for estates and trusts; or

(b) for purposes of Subsection (1)(a)(v), the commission may make rules for determining what constitutes an other deduction or miscellaneous itemized deduction if that other deduction or miscellaneous itemized deduction is consistent with an other deduction or miscellaneous itemized deduction that may be deducted on a federal income tax return for estates and trusts.

Enacted by Chapter 389, 2008 General Session

59-10-1021. Nonrefundable medical care savings account tax credit.

(1) As used in this section:

(a) "Account administrator" is as defined in Section 31A-32a-102.

(b) "Account holder" is as defined in Section 31A-32a-102.

(c) "Eligible medical expense" is as defined in Section 31A-32a-102.

(d) "Eligible spouse claimants" means claimants who are spouses if:

(i) the claimants file a single return jointly as husband and wife;

(ii) neither spouse is covered by:

(A) health care insurance as defined in Section 31A-1-301; or

(B) a self-funded plan that covers the other spouse; and

(iii) each spouse is an account holder.

(e) "Medical care savings account" is as defined in Section 31A-32a-102.

(2) Except as provided in Section 59-10-1002.2 and subject to Subsections (3) and (4), for taxable years beginning on or after January 1, 2008, a claimant may claim a nonrefundable tax credit for:

(a) a contribution:

(i) made during the taxable year;

(ii) made to a medical care savings account in accordance with Title 31A,

Chapter 32a, Medical Care Savings Account Act;

(iii) that is accepted by the account administrator; and

(iv) that the claimant does not deduct on the claimant's federal individual income tax return under Section 220, Internal Revenue Code; and

(b) interest on the contribution described in Subsection (2)(a).

(3) (a) For eligible spouse claimants, a tax credit under this section is equal to the product of:

(i) the greater of:

(A) the sum of:

(I) the amount contributed in accordance with Title 31A, Chapter 32a, Medical Care Savings Account Act, by or on behalf of the husband, not to exceed the amount described in Subsection 31A-32a-103(2)(a)(i); and

(II) the amount contributed in accordance with Title 31A, Chapter 32a, Medical Care Savings Account Act, by or on behalf of the wife, not to exceed the amount described in Subsection 31A-32a-103(2)(a)(i); or

(B) an amount equal to the sum of all eligible medical expenses paid by the eligible spouse claimants on behalf of:

(I) the husband;

(II) the wife; or

(III) a dependent of the:

(Aa) husband; or

(Bb) wife; and

(ii) 5%.

(b) For a claimant other than eligible spouse claimants, a tax credit under this section is equal to the product of:

(i) the greater of:

(A) the amount contributed by or on behalf of the claimant, not to exceed the amount described in Subsection 31A-32a-103(2)(a)(i); or

(B) an amount equal to the sum of all eligible medical expenses paid by the claimant on behalf of:

(I) the claimant;

(II) the claimant's spouse; or

(III) a dependent of the claimant; and

(ii) 5%.

(4) A tax credit under this section may not be carried forward or carried back.

Enacted by Chapter 389, 2008 General Session

59-10-1022. Nonrefundable tax credit for capital gain transactions.

(1) As used in this section:

(a) (i) "Capital gain transaction" means a transaction that results in a:

(A) short-term capital gain; or

(B) long-term capital gain.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "transaction."

(b) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(d) "Qualifying stock" means stock that is:

(i) (A) common; or

(B) preferred;

(ii) as defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, originally issued to:

(A) a claimant, estate, or trust; or

(B) a partnership if the claimant, estate, or trust that claims a tax credit under this section:

(I) was a partner on the day on which the stock was issued; and

(II) remains a partner until the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section; and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1, 2008; and

(C) for:

(I) money; or

(II) other property, except for stock or securities.

(e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(f) (i) "Utah small business corporation" means a corporation that:

(A) except as provided in Subsection (1)(f)(ii), is a small business corporation as defined in Section 1244(c)(3), Internal Revenue Code;

(B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section 1244(c)(1)(C), Internal Revenue Code; and

(C) has its commercial domicile in this state.

(ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be $2,500,000.

(iii) The phrase "the date the loss on such stock was sustained" in Sections 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section."

(2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the product of:

(a) the total amount of the claimant's, estate's, or trust's short-term capital gain or long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

(b) 5%.

(3) For purposes of Subsection (2), a claimant, estate, or trust may claim the nonrefundable tax credit allowed by Subsection (2) if:

(a) 70% or more of the gross proceeds of the capital gain transaction are

expended:

(i) to purchase qualifying stock in a Utah small business corporation; and

(ii) within a 12-month period after the day on which the capital gain transaction occurs; and

(b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the claimant, estate, or trust did not have an ownership interest in the Utah small business corporation that issued the qualifying stock.

(4) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) defining the term "gross proceeds"; and

(b) prescribing the circumstances under which a claimant, estate, or trust has an ownership interest in a Utah small business corporation.

Enacted by Chapter 389, 2008 General Session

59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit plan.

(1) As used in this section:

(a) "Claimant with dependents" means a claimant:

(i) regardless of the claimant's filing status for purposes of filing a federal individual income tax return for the taxable year; and

(ii) who claims one or more dependents under Section 151, Internal Revenue Code, as allowed on the claimant's federal individual income tax return for the taxable year.

(b) "Eligible insured individual" means:

(i) the claimant who is insured under a health benefit plan;

(ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

(A) the claimant files a single return jointly under this chapter with the claimant's spouse for the taxable year; and

(B) the spouse is insured under the health benefit plan described in Subsection (1)(b)(i); or

(iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

(A) the claimant claims the dependent under Section 151, Internal Revenue Code, as allowed on the claimant's federal individual income tax return for the taxable year; and

(B) the dependent is insured under the health benefit plan described in Subsection (1)(b)(i).

(c) "Excluded expenses" means an amount a claimant pays for insurance offered under a health benefit plan for a taxable year if:

(i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue Code:

(A) on the claimant's federal individual income tax return for the taxable year; and

(B) with respect to an eligible insured individual;

(ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue Code:

(A) on the claimant's federal individual income tax return for the taxable year; and

(B) with respect to an eligible insured individual; or

(iii) the claimant excludes that amount from gross income under Section 106 or 125, Internal Revenue Code, with respect to an eligible insured individual.

(d) (i) "Health benefit plan" is as defined in Section 31A-1-301.

(ii) "Health benefit plan" does not include equivalent self-insurance as defined by the Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) "Joint claimant with no dependents" means a husband and wife who:

(i) file a single return jointly under this chapter for the taxable year; and

(ii) do not claim a dependent under Section 151, Internal Revenue Code, on the husband's and wife's federal individual income tax return for the taxable year.

(f) "Single claimant with no dependents" means:

(i) a single individual who:

(A) files a single federal individual income tax return for the taxable year; and

(B) does not claim a dependent under Section 151, Internal Revenue Code, on the single individual's federal individual income tax return for the taxable year;

(ii) a head of household:

(A) as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year; and

(B) who does not claim a dependent under Section 151, Internal Revenue Code, on the head of household's federal individual income tax return for the taxable year; or

(iii) a married individual who:

(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(B) does not claim a dependent under Section 151, Internal Revenue Code, on that married individual's federal individual income tax return for the taxable year.

(2) Subject to Subsection (3), and except as provided in Subsection (4), for taxable years beginning on or after January 1, 2009, a claimant may claim a nonrefundable tax credit equal to the product of:

(a) the difference between:

(i) the total amount the claimant pays during the taxable year for:

(A) insurance offered under a health benefit plan; and

(B) an eligible insured individual; and

(ii) excluded expenses; and

(b) 5%.

(3) The maximum amount of a tax credit described in Subsection (2) a claimant may claim on a return for a taxable year is:

(a) for a single claimant with no dependents, $300;

(b) for a joint claimant with no dependents, $600; or

(c) for a claimant with dependents, $900.

(4) A claimant may not claim a tax credit under this section if the claimant is eligible to participate in insurance offered under a health benefit plan maintained and funded in whole or in part by:

(a) the claimant's employer; or

(b) another person's employer.

(5) A claimant may not carry forward or carry back a tax credit under this section.

Enacted by Chapter 389, 2008 General Session

59-10-1024. Nonrefundable tax credit for qualifying solar projects.

(1) As used in this section:

(a) "Active solar system" is as defined in Section 59-10-1014.

(b) "Purchaser" means a claimant, estate, or trust that purchases one or more solar units from a qualifying political subdivision.

(c) "Qualifying political subdivision" means:

(i) a city or town in this state;

(ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act; or

(iii) a special service district created under Title 17D, Chapter 1, Special Service District Act.

(d) "Qualifying solar project" means the portion of an active solar system:

(i) that a qualifying political subdivision:

(A) constructs;

(B) controls; or

(C) owns;

(ii) with respect to which the qualifying political subdivision described in Subsection (1)(c)(i) sells one or more solar units; and

(iii) that generates electrical output that is furnished:

(A) to one or more residential units; or

(B) for the benefit of one or more residential units.

(e) "Residential unit" is as defined in Section 59-10-1014.

(f) "Solar unit" means a portion of the electrical output:

(i) of a qualifying solar project;

(ii) that a qualifying political subdivision sells to a purchaser; and

(iii) the purchase of which requires that the purchaser agree to bear a proportionate share of the expense of the qualifying solar project:

(A) in accordance with a written agreement between the purchaser and the qualifying political subdivision;

(B) in exchange for a credit on the purchaser's electrical bill; and

(C) as determined by a formula established by the qualifying political subdivision.

(2) Subject to Subsection (3), for taxable years beginning on or after January 1, 2009, a purchaser may claim a nonrefundable tax credit equal to the product of:

(a) the amount the purchaser pays to purchase one or more solar units during the taxable year; and

(b) 25%.

(3) For a taxable year, a tax credit under this section may not exceed $2,000 on a return.

(4) A purchaser may carry forward a tax credit under this section for a period that does not exceed the next four taxable years if:

(a) the purchaser is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter for that taxable year.

(5) Subject to Section 59-10-1014, a tax credit under this section is in addition to any other tax credit allowed by this chapter.

(6) (a) On or before October 1, 2012, and every five years after October 1, 2012, the Revenue and Taxation Interim Committee shall review the tax credit allowed by this section and report its recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) The Revenue and Taxation Interim Committee's report under Subsection (6)(a) shall include information concerning the cost of the tax credit, the purpose and effectiveness of the tax credit, and the state's benefit from the tax credit.

Amended by Chapter 384, 2011 General Session

59-10-1025. Nonrefundable tax credit for investment in certain life science establishments.

(1) As used in this section:

(a) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(b) "Eligible claimant, estate, or trust" is as defined in Section 63M-1-2902.

(c) "Life science establishment" means an establishment described in one of the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(ii) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(iii) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(d) "Office" means the Governor's Office of Economic Development.

(e) "Pass-through entity" is as defined in Section 59-10-1402.

(f) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(g) "Qualifying ownership interest" means an ownership interest that is:

(i) (A) common stock;

(B) preferred stock; or

(C) an ownership interest in a pass-through entity;

(ii) originally issued to:

(A) an eligible claimant, estate, or trust; or

(B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit under this section was a pass-through entity taxpayer of the pass-through entity on the day on which the qualifying ownership interest was issued and remains a pass-through entity taxpayer of the pass-through entity until the last day of the taxable year for which the eligible claimant, estate, or trust claims a tax credit under this section; and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1, 2011; and

(C) for money or other property, except for stock or securities.

(h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" is as defined in Section 59-10-1022.

(ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal Revenue Code, is considered to include a pass-through entity.

(2) Subject to the other provisions of this section, for a taxable year beginning on or after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate issued to the eligible claimant, estate, or trust in accordance with Section 63M-1-2908 for that taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase price of a qualifying ownership interest in a Utah small business corporation by the claimant, estate, or trust if:

(a) the qualifying ownership interest is issued by a Utah small business corporation that is a life science establishment;

(b) the qualifying ownership interest in the Utah small business corporation is purchased for at least $25,000;

(c) the eligible claimant, estate, or trust owned less than 30% of the qualifying ownership interest of the Utah small business corporation at the time of the purchase of the qualifying ownership interest; and

(d) on each day of the taxable year of the purchase of the qualifying ownership interest, the Utah small business corporation described in Subsection (2)(a) has at least 50% of its employees in the state.

(3) Subject to Subsection (4), the tax credit under Subsection (2):

(a) may only be claimed by the eligible claimant, estate, or trust:

(i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit certificate issued in accordance with Section 63M-1-2908; and

(ii) subject to obtaining a tax credit certificate for each taxable year as required by Subsection (3)(a)(i), for a period of three taxable years as follows:

(A) the tax credit in the taxable year of the purchase of the qualifying ownership interest may not exceed 10% of the purchase price of the qualifying ownership interest;

(B) the tax credit in the taxable year after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest; and

(C) the tax credit in the taxable year two years after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership interest; and

(b) may not exceed the lesser of:

(i) the amount listed on the tax credit certificate issued in accordance with Section 63M-1-2908; or

(ii) $350,000 in a taxable year.

(4) An eligible claimant, estate, or trust may not claim a tax credit under this section for a taxable year if the eligible claimant, estate, or trust:

(a) has sold any of the qualifying ownership interest during the taxable year; or

(b) does not hold a tax credit certificate for that taxable year that is issued to the eligible claimant, estate, or trust by the office in accordance with Section 63M-1-2908.

(5) If a Utah small business corporation in which an eligible claimant, estate, or trust purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the eligible claimant, estate, or trust may not claim both the tax credit provided in this section and a capital loss on the qualifying ownership interest.

(6) If an eligible claimant is a pass-through entity taxpayer that files a return under Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax credit under this section on the return filed under Chapter 7, Corporate Franchise and Income Taxes.

(7) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

Amended by Chapter 423, 2012 General Session

59-10-1027. Nonrefundable tax credit for combat related death.

(1) As used in this section:

(a) "Active component of the United States Armed Forces" means active duty service in the United States Army, United States Navy, United States Air Force, United States Marine Corps, or United States Coast Guard.

(b) "Combat related death" means an individual who dies:

(i) on or after January 1, 2010; and

(ii) (A) while in military service in a combat zone; or

(B) as a result of a wound, disease, or injury the individual incurs while in military service in a combat zone.

(c) "Combat zone" means an area that the President of the United States designates by Executive Order as an area in which an active component of the United States Armed Forces or a reserve component of the United States Armed Forces are or have engaged in combat.

(d) "Military service in a combat zone" means service:

(i) in an active component of the United States Armed Forces or reserve component of the United States Armed Forces; and

(ii) performed:

(A) on or after the date the President of the United States designates by Executive Order as the date combatant activities begin in a combat zone; and

(B) on or before the date the President of the United States designates by Executive Order as the date combatant activities terminate in a combat zone.

(e) "Reserve component of the United States Armed Forces" means service in a

reserve component of the armed forces listed in 10 U.S.C. Sec. 101(c) or 10 U.S.C. Sec. 10101.

(2) A claimant, estate, or trust that files a return on behalf of an individual who dies a combat related death may claim a nonrefundable tax credit against that individual's tax liability under this chapter as provided in this section.

(3) For purposes of Subsection (2), the tax credit is equal to the tax liability of the individual who dies a combat related death for the taxable year during which the individual dies.

Enacted by Chapter 254, 2011 General Session

59-10-1028. Nonrefundable tax credit for capital gain transactions on the exchange of one form of legal tender for another form of legal tender.

(1) As used in this section:

(a) "Capital gain transaction" means a transaction that results in a:

(i) short-term capital gain; or

(ii) long-term capital gain.

(b) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(c) "Long-term capital loss" is as defined in Section 1222, Internal Revenue Code.

(d) "Net capital gain" means the amount by which the sum of long-term capital gains and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges made for a taxable year of one form of legal tender for another form of legal tender exceeds the sum of long-term capital losses and short-term capital losses on those transactions for that taxable year.

(e) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.

(f) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(2) Except as provided in Section 59-10-1002.2, for taxable years beginning on or after January 1, 2012, a claimant, estate, or trust may claim a nonrefundable tax credit equal to the product of:

(a) to the extent a net capital gain is included in taxable income, the amount of the claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of legal tender; and

(b) 5%.

(3) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Amended by Chapter 399, 2012 General Session

59-10-1029. Nonrefundable alternative energy development tax credit.

(1) As used in this section:

(a) "Alternative energy entity" is as defined in Section 63M-4-502.

(b) "Alternative energy project" is as defined in Section 63M-4-502.

(c) "Office" is as defined in Section 63M-4-401.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 4, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy project;

(iii) the information contained in the office's latest report to the Legislature under Section 63M-4-505; and

(iv) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Enacted by Chapter 410, 2012 General Session

59-10-1030. Nonrefundable alternative energy manufacturing tax credit.

(1) As used in this section:

(a) "Alternative energy entity" is as defined in Section 63M-1-3102.

(b) "Alternative energy manufacturing project" is as defined in Section 63M-1-3102.

(c) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy manufacturing as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 1, Part 31, Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.

(5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy manufacturing project;

(iii) the information contained in the office's latest report to the Legislature under Section 63M-1-3105; and

(iv) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Enacted by Chapter 410, 2012 General Session

59-10-1031. Nonrefundable tax credit for employing a recently deployed veteran.

(1) As used in this section, "recently deployed veteran" means an individual who:

(a) was mobilized to active federal military service in:

(i) an active component of the United States Armed Forces as defined in Section 59-10-1027; or

(ii) a reserve component of the United States Armed Forces as defined in Section 59-10-1027; and

(b) received an honorable or general discharge from active federal military

service under Subsection (1)(a) within the two-year period before the date the employment begins.

(2) A claimant, estate, or trust may claim a nonrefundable tax credit as provided in this section against a tax under this chapter if the claimant, estate, or trust employs a recently deployed veteran, on or after January 1, 2012, who:

(a) (i) is collecting or is eligible to collect unemployment benefits under Title 35A, Chapter 4, Part 4, Benefits and Eligibility; or

(ii) within the last two years, has exhausted the unemployment benefits under Subsection (2)(a)(i); and

(b) works for the claimant, estate, or trust at least 35 hours per week for not less than 45 of the 52 weeks following the recently deployed veteran's start date for the employment.

(3) A tax credit:

(a) earned under this section shall be claimed beginning in the year the requirements of Subsection (2) are met;

(b) for the first taxable year, is equal to $200 for each month of employment not to exceed $2,400 for the taxable year for each recently deployed veteran; and

(c) for the second taxable year, is equal to $400 for each month of employment not to exceed $4,800 for the taxable year for each recently deployed veteran.

(4) A claimant, estate, or trust that claims a tax credit under this section shall retain the following for each recently deployed veteran for which a tax credit is claimed under this section:

(a) the recently deployed veteran's:

(i) name;

(ii) taxpayer identification number;

(iii) last known address;

(iv) start date of the employment; and

(v) documentation establishing that the recently deployed veteran was employed as required under Subsection (2)(b);

(b) documentation provided by the recently deployed veteran's military service unit establishing that the recently deployed veteran is a recently deployed veteran; and

(c) a signed statement from the Department of Workforce Services that the recently deployed veteran meets the requirements of Subsection (2)(a) regarding unemployment benefits.

(5) At the request of the commission, a claimant, estate, or trust shall provide the information described in Subsection (4) to the commission.

(6) A claimant, estate, or trust may carry forward a tax credit under this section for a period that does not exceed the next five taxable years if:

(a) the claimant, estate, or trust is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the claimant, estate, or trust's tax liability under this chapter for that taxable year.

Enacted by Chapter 306, 2012 General Session

59-10-1101. Title.

This part is known as the "Refundable Tax Credit Act."

Enacted by Chapter 223, 2006 General Session

59-10-1102. Definitions.

As used in this part:

(1) (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1103(1)(a), "claimant" means a resident or nonresident person.

(b) "Claimant" does not include an estate or trust.

(2) Except as provided in Subsection 59-10-1103(1)(a), "estate" means a nonresident estate or a resident estate.

(3) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or trust may claim:

(a) as provided by statute; and

(b) regardless of whether the claimant, estate, or trust has a tax liability under this chapter for a taxable year.

(4) Except as provided in Subsection 59-10-1103(1)(a), "trust" means a nonresident trust or a resident trust.

Enacted by Chapter 223, 2006 General Session

59-10-1103. Tax credit for pass-through entity taxpayer.

(1) As used in this section:

(a) "Pass-through entity" is as defined in Section 59-10-1402.

(b) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(2) A pass-through entity taxpayer may claim a refundable tax credit against the tax otherwise due under this chapter if that pass-through entity taxpayer is a:

(a) claimant;

(b) estate; or

(c) trust.

(3) The tax credit described in Subsection (2) is equal to the amount paid or withheld by the pass-through entity on behalf of the pass-through entity taxpayer described in Subsection (2) in accordance with Section 59-10-1403.2.

(4) A pass-through entity taxpayer may not claim a tax credit under this section for an amount for which the pass-through entity taxpayer claims a tax credit under Section 59-7-614.4.

Amended by Chapter 312, 2009 General Session

59-10-1104. Tax credit for adoption of a child who has a special need.

(1) As used in this section, a "child who has a special need" means a child who meets at least one of the following conditions:

(a) the child is five years of age or older;

(b) the child:

(i) is under the age of 18; and
(ii) has a physical, emotional, or mental disability; or
(c) the child is a member of a sibling group placed together for adoption.
(2) (a) Subject to the other provisions of this section, a claimant who adopts a child who has a special need may claim a refundable tax credit of $1,000:
(i) for a child who has a special need who the claimant adopts;
(ii) on the claimant's individual income tax return for the taxable year; and
(iii) against taxes otherwise due under this chapter.
(b) A tax credit under this section may not exceed $1,000 per return for a taxable year.
(3) For a claimant to qualify for the tax credit described in Subsection (2) for an adoption:
(a) the order that grants the adoption shall be issued:
(i) on or after January 1, 2013; and
(ii) by:
(A) a court of competent jurisdiction of this state or another state; or
(B) a foreign country;
(b) the claimant shall be a resident of this state on the date the order described in Subsection (3)(a) is issued; and
(c) for an adoption made by a foreign country, the adoption shall be registered in accordance with Section 78B-6-142.
(4) (a) For an adoption for which a court of competent jurisdiction of this state or another state issues the order described in Subsection (3)(a), a claimant may claim a tax credit for the taxable year for which the adoption order becomes final.
(b) For an adoption for which a foreign country issues the order described in Subsection (3)(a), a claimant may claim a tax credit for the taxable year for which a court of competent jurisdiction in this state orders the state registrar to file the adoption order issued by the foreign country.
(5) The credit provided for in this section may not be carried forward or carried back.
(6) Nothing in this section shall affect the ability of any claimant who adopts a child who has a special need to receive adoption assistance under Section 62A-4a-907.

Amended by Chapter 414, 2013 General Session

59-10-1105. Tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Education Fund -- Rulemaking authority.

(1) For taxable years beginning on or after January 1, 2004, a claimant, estate, or trust may claim a refundable tax credit:
(a) as provided in this section;
(b) against taxes otherwise due under this chapter; and
(c) in an amount equal to the amount of tax the claimant, estate, or trust pays:
(i) on a purchase of a hand tool:

(A) if the purchase is made on or after July 1, 2004;

(B) if the hand tool is used or consumed primarily and directly in a farming operation in the state; and

(C) if the unit purchase price of the hand tool is more than $250; and

(ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).

(2) A claimant, estate, or trust:

(a) shall retain the following to establish the amount of tax the claimant, estate, or trust paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i):

(i) a receipt;

(ii) an invoice; or

(iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

(b) may not carry forward or carry back a tax credit under this section.

(3) (a) In accordance with any rules prescribed by the commission under Subsection (3)(b), the commission shall:

(i) make a refund to a claimant, estate, or trust that claims a tax credit under this section if the amount of the tax credit exceeds the claimant's, estate's, or trust's tax liability under this chapter; and

(ii) transfer at least annually from the General Fund into the Education Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i); or

(ii) transfers from the General Fund into the Education Fund as required by Subsection (3)(a)(ii).

Amended by Chapter 382, 2008 General Session

59-10-1106. Refundable renewable energy tax credit.

(1) As used in this section:

(a) "Active solar system" is as defined in Section 59-10-1014.

(b) "Biomass system" is as defined in Section 59-10-1014.

(c) "Business entity" is as defined in Section 59-10-1014.

(d) "Commercial energy system" means any active solar, passive solar, geothermal electricity, direct-use geothermal, geothermal heat-pump system, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(e) "Commercial enterprise" means a business entity that:

(i) is a claimant, estate, or trust; and

(ii) has the purpose of producing electrical, mechanical, or thermal energy for sale from a commercial energy system.

(f) (i) "Commercial unit" means any building or structure that a business entity that is a claimant, estate, or trust uses to transact its business.

(ii) Notwithstanding Subsection (1)(f)(i):

(A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(B) if an energy system is the building or structure that a business entity that is a claimant, estate, or trust uses to transact its business, a commercial unit is the complete energy system itself.

(g) "Direct-use geothermal system" is as defined in Section 59-10-1014.

(h) "Geothermal electricity" is as defined in Section 59-10-1014.

(i) "Geothermal heat-pump system" is as defined in Section 59-10-1014.

(j) "Hydroenergy system" is as defined in Section 59-10-1014.

(k) "Office" means the Office of Energy Development created in Section 63M-4-401.

(l) "Passive solar system" is as defined in Section 59-10-1014.

(m) "Wind system" is as defined in Section 59-10-1014.

(2) (a) (i) A business entity that is a claimant, estate, or trust that purchases or participates in the financing of a commercial energy system situated in Utah is entitled to a refundable tax credit as provided in this Subsection (2)(a) if the commercial energy system does not use wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity and:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity that is a claimant, estate, or trust; or

(B) the business entity that is a claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity that is a claimant, estate, or trust is entitled to a tax credit of up to 10% of the reasonable costs of any commercial energy system installed, including installation costs, against any tax due under this chapter for the taxable year in which the commercial energy system is completed and placed in service.

(B) Notwithstanding Subsection (2)(a)(ii)(A), the total amount of the credit under this Subsection (2)(a) may not exceed $50,000 per commercial unit.

(C) The credit under this Subsection (2)(a) is allowed for any commercial energy system completed and placed in service on or after January 1, 2007.

(iii) A business entity that is a claimant, estate, or trust that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(a) if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

(iv) Only the principal recovery portion of the lease payments, which is the cost incurred by a business entity that is a claimant, estate, or trust in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(a).

(v) A business entity that is a claimant, estate, or trust that leases a commercial energy system is eligible to use the tax credit under this Subsection (2)(a) for a period no greater than seven years from the initiation of the lease.

(b) (i) A business entity that is a claimant, estate, or trust that owns a

commercial energy system situated in Utah using wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity is entitled to a refundable tax credit as provided in this section if:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity that is a claimant, estate, or trust; or

(B) the business entity that is a claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) A business entity that is a claimant, estate, or trust is entitled to a tax credit under this Subsection (2)(b) equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and either used or sold during the taxable year.

(iii) The credit allowed by this Subsection (2)(b):

(A) may be claimed for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in service; and

(B) may not be carried forward or back.

(iv) A business entity that is a claimant, estate, or trust that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this section if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

(3) The tax credits provided for under this section are in addition to any tax credits provided under the laws or rules and regulations of the United States.

(4) (a) The office may set standards for commercial energy systems claiming a tax credit under Subsection (2)(a) that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(b) A tax credit may not be taken under this section until the office has certified that the commercial energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

(5) The office and the commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to implement this section.

(6) (a) On or before October 1, 2012, and every five years thereafter, the Revenue and Taxation Interim Committee shall review each tax credit provided by this section and report its recommendations to the Legislative Management Committee concerning whether the credit should be continued, modified, or repealed.

(b) The Revenue and Taxation Interim Committee's report under Subsection (6)(a) shall include information concerning the cost of the credit, the purpose and effectiveness of the credit, and the state's benefit from the credit.

Amended by Chapter 37, 2012 General Session

59-10-1107. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as defined in Section 63M-1-2403.

(b) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, a business entity may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a business entity that claims a tax credit under this section if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity as required by Subsection (4)(a).

(5) (a) On or before October 1, 2013, and every five years after October 1, 2013, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit the office grants to each taxpayer for each calendar year;

(ii) the criteria the office uses in granting a tax credit;

(iii) the new state revenues generated by each taxpayer for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section 63M-1-2406; and

(v) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Amended by Chapter 246, 2012 General Session
Amended by Chapter 410, 2012 General Session

59-10-1108. Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a claimant, estate, or trust that meets the definition of a motion picture company under Section 63M-1-1802.

(b) "Office" means the Governor's Office of Economic Development.

(c) "State-approved production" has the same meaning as defined in Section 63M-1-1802.

(2) For taxable years beginning on or after January 1, 2009, a motion picture company may claim a refundable tax credit for a state-approved production.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to a motion picture company under Section 63M-1-1803 for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a motion picture company that claims a tax credit under this section if the amount of the tax credit exceeds the motion picture company's tax liability for the taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a motion picture company as required by Subsection (4)(a).

(5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit the office grants to each taxpayer for each calendar year;

(ii) the criteria the office uses in granting a tax credit;

(iii) the dollars left in the state, as defined in Section 63M-1-1802, by each motion picture company for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section 63M-1-1805; and

(v) any other information requested by the Revenue and Taxation Interim Committee.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Amended by Chapter 246, 2012 General Session

59-10-1109. Refundable tax credit for certain business entities generating state tax revenue increases.

(1) As used in this section:

(a) "Eligible business entity" is as defined in Section 63M-1-2902.

(b) "Eligible new state tax revenues" is as defined in Section 63M-1-2902.

(c) "Office" means the Governor's Office of Economic Development.

(d) "Pass-through entity" is as defined in Section 59-10-1402.

(e) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(f) "Qualifying agreement" is as defined in Section 59-7-614.6.

(2) Subject to the other provisions of this section, an eligible business entity may:

(a) claim a refundable tax credit as provided in Subsection (3); or

(b) if the eligible business entity is a pass-through entity, pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that the eligible business entity could otherwise claim under this section.

(3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit is:

(i) for an eligible business entity, an amount up to the amount listed on the tax credit certificate that the office issues to the eligible business entity for the taxable year in accordance with Section 63M-1-2908; or

(ii) for a pass-through entity taxpayer, an amount up to the amount of a tax credit that an eligible business entity passes through to the pass-through entity taxpayer of the pass-through entity in accordance with Subsection (2)(b) or Subsection 59-7-614.6(2)(b).

(b) Subject to Subsection (3)(c), a tax credit under this section may not exceed the amount of eligible new state tax revenues generated by an eligible business entity for the taxable year for which the eligible business entity claims a tax credit under this section.

(c) A tax credit under this section for an eligible business entity that enters into a qualifying agreement may not exceed:

(i) for the taxable year in which the eligible business entity first generates eligible new state tax revenues and the two following years, the amount of eligible new state tax revenues generated by the eligible business entity; and

(ii) for the seven taxable years following the last of the three taxable years described in Subsection (3)(c)(i), 75% of the amount of eligible new state tax revenues generated by the eligible business entity.

(4) An eligible business entity or pass-through entity taxpayer to which an eligible business entity passes through a tax credit in accordance with Subsection (2)(b) or Subsection 59-7-614.6(2)(b) may only claim or pass through a tax credit under this section for a taxable year for which the eligible business entity holds a tax credit certificate issued in accordance with Section 63M-1-2908.

(5) An eligible business entity or a pass-through entity taxpayer may not:

(a) carry forward or carry back a tax credit under this section; or

(b) claim a tax credit under both this section and Section 59-7-614.6.

Amended by Chapter 423, 2012 General Session

59-10-1301. Title.

This part is known as the "Individual Income Tax Contribution Act."

Enacted by Chapter 389, 2008 General Session

59-10-1302. Definitions.

As used in this part, "contribution" means a contribution a resident or nonresident individual makes on an individual income tax return as allowed by this part.

Enacted by Chapter 389, 2008 General Session

59-10-1303. Contributions -- Amount -- Procedure for designating a contribution -- Joint return -- Contribution irrevocable.

(1) A resident or nonresident individual that makes a contribution under this part, other than Section 59-10-1311 or Section 59-10-1313, may designate as the contribution any whole dollar amount of $1 or more.

(2) If a resident or nonresident individual designating a contribution under this part other than Section 59-10-1311:

(a) is owed an individual income tax refund for the taxable year, the amount of the contribution under this part shall be deducted from the resident or nonresident individual's individual income tax refund; or

(b) is not owed an individual income tax refund for the taxable year, the resident or nonresident individual may remit a contribution under this part with the resident or nonresident individual's individual income tax return, except as provided in Section 59-10-1313.

(3) If a husband and wife file a single individual income tax return jointly, a contribution under this part, other than Section 59-10-1311, shall be a joint contribution.

(4) Except as provided in Subsection 59-10-1313(3)(c), a contribution under this part is irrevocable for the taxable year for which the resident or nonresident individual makes the contribution.

Amended by Chapter 251, 2009 General Session

59-10-1304. Removal of designation and prohibitions on collection for certain contributions on income tax return -- Conditions for removal and prohibitions on collection -- Commission reporting requirements.

(1) (a) If a contribution or combination of contributions described in Subsection (1)(b) generate less than $30,000 per year for three consecutive years, the commission shall remove the designation for the contribution from the individual income tax return and may not collect the contribution from a resident or nonresident individual beginning two taxable years after the three-year period for which the contribution generates less than $30,000 per year.

(b) The following contributions apply to Subsection (1)(a):

(i) the contribution provided for in Section 59-10-1305;

(ii) the contribution provided for in Section 59-10-1306;

(iii) the sum of the contributions provided for in Subsection 59-10-1307(1);

(iv) the contribution provided for in Section 59-10-1308;

(v) the contribution provided for in Section 59-10-1310;

(vi) the contribution provided for in Section 59-10-1315;

(vii) the sum of the contributions provided for in:

(A) Section 59-10-1316; and
(B) Section 59-10-1317; or
(viii) the contribution provided for in Section 59-10-1318.
(2) If the commission removes the designation for a contribution under Subsection (1), the commission shall report to the Revenue and Taxation Interim Committee that the commission removed the designation on or before the November interim meeting of the year in which the commission determines to remove the designation.

Amended by Chapter 235, 2013 General Session
Amended by Chapter 338, 2013 General Session

59-10-1305. Nongame wildlife contribution -- Credit to Wildlife Resources Account.

(1) As used in this section, "nongame wildlife" means wildlife species that are:
(a) (i) protected;
(ii) endangered; or
(iii) threatened with extinction;
(b) under the jurisdiction of the Division of Wildlife Resources, including:
(i) aquatic wildlife;
(ii) a crustacean;
(iii) an invertebrate;
(iv) a mollusk; or
(v) specialized habitat wildlife, including an aquatic or terrestrial type of specialized habitat wildlife;
(c) not commonly pursued, killed, or consumed for sport or profit; and
(d) not nuisance predators presently being brought under control by the state.
(2) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution as provided in this part to preserve, protect, perpetuate, and enhance nongame wildlife resources of the state through preservation of a satisfactory environment and an ecological balance.
(3) The commission shall:
(a) determine annually the total amount of contributions designated in accordance with this section; and
(b) credit the amount described in Subsection (3)(a) to the Wildlife Resources Account in accordance with Section 23-14-13.

Renumbered and Amended by Chapter 389, 2008 General Session

59-10-1306. Homeless contribution -- Credit to Pamela Atkinson Homeless Account.

(1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on

the resident or nonresident individual's individual income tax return a contribution to the Pamela Atkinson Homeless Account as provided in this part.

(2) The commission shall:

(a) determine annually the total amount of contributions designated in accordance with this section; and

(b) credit the amount described in Subsection (2)(a) to the Pamela Atkinson Homeless Account created by Section 35A-8-603.

Amended by Chapter 212, 2012 General Session

59-10-1307. Contributions for education.

(1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution as provided in this part to:

(a) the foundation of any school district if that foundation is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; or

(b) a school district described in Title 53A, Chapter 2, School Districts, if the school district has not established a foundation.

(2) If a resident or nonresident individual designates an amount as a contribution under:

(a) Subsection (1)(a), but does not designate a particular school district foundation to receive the contribution, the contribution shall be made to the Utah State Office of Education to be distributed to one or more associations of foundations:

(i) if those foundations that are members of the association are established in accordance with Section 53A-4-205; and

(ii) as determined by the Utah State Office of Education; or

(b) Subsection (1)(b), but does not designate a particular school district to receive the contribution, the contribution shall be made to the Utah State Office of Education.

(3) The commission shall:

(a) determine annually the total amount of contributions designated to each entity described in Subsection (1) in accordance with this section; and

(b) subject to Subsection (2), credit the amounts described in Subsection (1) to the entities.

Amended by Chapter 17, 2009 General Session

59-10-1308. Children's organ transplants contribution -- Credit to Kurt Oscarson Children's Organ Transplant Account.

(1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution to the Kurt Oscarson Children's Organ Transplant Account created by Section 26-18a-4.

(2) The commission shall:

(a) determine annually the total amount of contributions designated in accordance with this section; and

(b) credit the amount described in Subsection (2)(a) to the Kurt Oscarson Children's Organ Transplant Account created by Section 26-18a-4.

Amended by Chapter 278, 2010 General Session

59-10-1310. Contribution to Cat and Dog Community Spay and Neuter Program Restricted Account.

(1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution as provided in this section to be:

(a) deposited into the Cat and Dog Community Spay and Neuter Program Restricted Account created by Section 4-40-102; and

(b) distributed by the Department of Health as provided in Section 4-40-102.

(2) The commission shall:

(a) determine annually the total amount of contributions designated in accordance with this section; and

(b) credit the amount described in Subsection (2)(a) to the Cat and Dog Community Spay and Neuter Program Restricted Account created by Section 4-40-102.

Amended by Chapter 369, 2012 General Session

59-10-1311. Election Campaign Fund contribution -- Transfer from General Fund -- Form and procedure.

(1) (a) A resident or nonresident individual, other than a nonresident alien, may designate on the resident or nonresident individual's individual income tax return a contribution of $2 to the Election Campaign Fund created by Section 59-10-1312, if the resident or nonresident individual:

(i) has a liability under this chapter for a taxable year of $2 or more; and

(ii) files a return under this chapter.

(b) The commission shall transfer $2 from the General Fund to the Election Campaign Fund for each contribution made on an individual income tax return under this Subsection (1).

(c) The transfer described in Subsection (1)(b) shall be made from revenue generated from state sales and use tax revenues collected in accordance with Chapter 12, Sales and Use Tax Act.

(2) (a) A contribution under Subsection (1) may be made with respect to any taxable year at the time a resident or nonresident individual files a return for that taxable year.

(b) The commission shall include the contribution allowed by this section:

(i) on a return under this chapter; and

(ii) for any political party as defined by Section 20A-1-102 that has qualified as a political party in the first six months of the calendar year for which the return is

prepared.

(c) The commission shall place a political party described in Subsection (2)(b) on a return described in Subsection (2)(b) in alphabetical order.

(d) The commission shall include on a return described in Subsection (2)(b):

(i) the option for a resident or nonresident individual to indicate that no contribution is to be made to any political party; and

(ii) a statement that a contribution a resident or nonresident individual, other than a nonresident alien, makes under this section may not:

(A) increase the resident or nonresident individual's tax liability under this chapter; or

(B) reduce the resident or nonresident individual's refund under this chapter.

Renumbered and Amended by Chapter 389, 2008 General Session

59-10-1312. Election Campaign Fund -- Creation -- Funding for account -- Disbursement and distribution -- State treasurer requirement to provide a list of contributions designated to each political party.

(1) (a) As used in this section, "fund" means the Election Campaign Fund created by this section.

(b) There is created an agency fund known as the "Election Campaign Fund."

(c) The fund shall consist of all amounts deposited to the fund in accordance with Section 59-10-1311.

(2) On or before four months after the due date for filing a return required by this chapter in which a contribution is made in accordance with Section 59-10-1311, the state treasurer shall:

(a) disburse that portion of the amounts deposited in the fund since the last disbursement:

(i) that are designated for a political party; and

(ii) to the political party to which the amounts are designated; and

(b) provide to the political party described in Subsection (2)(a)(ii) a list disclosing, for each county, the total amount designated by resident or nonresident individuals, other than nonresident aliens, in that county.

Renumbered and Amended by Chapter 389, 2008 General Session

59-10-1313. Contribution to a Utah Educational Savings Plan account.

(1) (a) If a resident or nonresident individual is owed an individual income tax refund for the taxable year, the individual may designate on the resident or nonresident individual's income tax return a contribution to a Utah Educational Savings Plan account established under Title 53B, Chapter 8a, Utah Educational Savings Plan, in the amount of the entire individual income tax refund.

(b) If a resident or nonresident individual is not owed an individual income tax refund for the taxable year, the individual may not designate on the resident or nonresident's individual income tax return a contribution to a Utah Educational Savings Plan account.

(2) (a) The commission shall send the contribution to the Utah Educational Savings Plan along with the following information:

(i) the amount of the individual income tax refund; and

(ii) the taxpayer's:

(A) name;

(B) Social Security number or taxpayer identification number; and

(C) address.

(b) The commission shall provide the taxpayer's telephone number and number of dependents claimed, as requested, to the Utah Educational Savings Plan.

(c) If a contribution to a Utah Educational Savings Plan account is designated in a single individual income tax return filed jointly by a husband and wife, the commission shall send the information described under Subsection (2)(a) or (b) for both the husband and wife to the Utah Educational Savings Plan.

(3) (a) If the taxpayer owns a Utah Educational Savings Plan account, the Utah Educational Savings Plan shall deposit the contribution into the account.

(b) If the taxpayer owns more than one Utah Educational Savings Plan account, the Utah Educational Savings Plan shall allocate the contribution among the accounts in equal amounts.

(c) (i) If the taxpayer does not own a Utah Educational Savings Plan account, the Utah Educational Savings Plan shall send the taxpayer an account agreement.

(ii) If the taxpayer does not sign and return the account agreement by the date specified by the Utah Educational Savings Plan, the Utah Educational Savings Plan shall return the contribution to the taxpayer without any interest or earnings.

(4) For the purpose of determining interest on an overpayment or refund under Section 59-1-402, no interest accrues after the commission sends the contribution to the Utah Educational Savings Plan.

Amended by Chapter 46, 2011 General Session

59-10-1314. Contribution to Methamphetamine Housing Reconstruction and Rehabilitation Account.

(1) For a taxable year beginning on or after January 1, 2010, but beginning on or before December 31, 2012, only, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution as provided in this section to be:

(a) deposited into the Methamphetamine Housing Reconstruction and Rehabilitation Account created in Section 35A-8-1103; and

(b) expended for the purposes described in Section 35A-8-1103.

(2) The commission shall:

(a) determine the total amount of contributions designated in accordance with this section for the taxable year described in Subsection (1); and

(b) credit the amount described in Subsection (2)(a) to the Methamphetamine Housing Reconstruction and Rehabilitation Account created in Section 35A-8-1103.

Amended by Chapter 212, 2012 General Session

59-10-1315. Contribution to Canine Body Armor Restricted Account.

(1) Except as provided in Section 59-10-1304, for a taxable year beginning on or after January 1, 2011, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution as provided in this section to be:

(a) deposited into the Canine Body Armor Restricted Account created in Section 53-16-201; and

(b) expended as provided in Title 53, Chapter 16, Canine Body Armor Restricted Account Act.

(2) The commission shall:

(a) determine the total amount of contributions designated in accordance with this section for a taxable year; and

(b) credit the amount described in Subsection (2)(a) to the Canine Body Armor Restricted Account created in Section 53-16-201.

Enacted by Chapter 294, 2011 General Session

59-10-1316. Contribution to Youth Development Organization Restricted Account.

(1) Except as provided in Section 59-10-1304, for a taxable year beginning on or after January 1, 2013, a resident or nonresident individual who files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution as provided in this section to be:

(a) deposited into the Youth Development Organization Restricted Account created in Section 35A-8-1903; and

(b) expended as provided in Title 35A, Chapter 8, Part 19, Youth Development Organization Restricted Account Act.

(2) The commission shall:

(a) determine the total amount of contributions designated in accordance with this section for a taxable year; and

(b) credit the amount described in Subsection (2)(a) to the Youth Development Organization Restricted Account.

Enacted by Chapter 338, 2013 General Session

59-10-1317. Contribution to Youth Character Organization Restricted Account.

(1) Except as provided in Section 59-10-1304, for a taxable year beginning on or after January 1, 2013, a resident or nonresident individual who files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution as provided in this section to be:

(a) deposited into the Youth Character Organization Restricted Account created in Section 35A-8-2003; and

(b) expended as provided in Title 35A, Chapter 8, Part 20, Youth Character Organization Restricted Account Act.

(2) The commission shall:

(a) determine the total amount of contributions designated in accordance with this section for a taxable year; and

(b) credit the amount described in Subsection (2)(a) to the Youth Character Organization Restricted Account.

Enacted by Chapter 338, 2013 General Session

59-10-1318. Contribution to Invest More for Education Account.

(1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution as provided in this section to be:

(a) deposited into the Invest More for Education Account; and

(b) expended as provided in Subsection 53A-16-101(4).

(2) The commission shall:

(a) determine the total amount of contributions designated in accordance with this section for a taxable year; and

(b) credit the amount described in Subsection (2)(a) to the Invest More for Education Account created in Subsection 53A-16-101(4).

Enacted by Chapter 235, 2013 General Session

59-10-1401. Title.

This part is known as the "Pass-Through Entities and Pass-Through Entity Taxpayers Act."

Amended by Chapter 312, 2009 General Session

59-10-1402. Definitions.

As used in this part:

(1) "Addition, subtraction, or adjustment" means:

(a) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes:

(i) an addition to unadjusted income described in Section 59-7-105; or

(ii) a subtraction from unadjusted income described in Section 59-7-106;

(b) for a pass-through entity taxpayer that is classified as an individual, partnership, or S corporation for federal income tax purposes:

(i) an addition to or subtraction from adjusted gross income described in Section 59-10-114; or

(ii) an adjustment to adjusted gross income described in Section 59-10-115; or

(c) for a pass-through entity taxpayer that is classified as an estate or a trust for federal income tax purposes:

(i) an addition to or subtraction from unadjusted income described in Section 59-10-202; or

(ii) an adjustment to unadjusted income described in Section 59-10-209.1.

(2) "Business income" means income arising from transactions and activity in the regular course of a pass-through entity's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the pass-through entity's regular trade or business operations.

(3) "C corporation" is as defined in Section 1361, Internal Revenue Code.

(4) "Commercial domicile" means the principal place from which the trade or business of a business entity is directed or managed.

(5) "Dependent beneficiary" means an individual who:

(a) is claimed as a dependent under Section 151, Internal Revenue Code, on another person's federal income tax return; and

(b) is a beneficiary of a trust that is a pass-through entity.

(6) "Derived from or connected with Utah sources" means:

(a) if a pass-through entity taxpayer is classified as a C corporation for federal income tax purposes, derived from or connected with Utah sources in accordance with Chapter 7, Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions; or

(b) if a pass-through entity or pass-through entity taxpayer is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, derived from or connected with Utah sources in accordance with Sections 59-10-117 and 59-10-118.

(7) "Nonbusiness income" means all income of a pass-through entity other than business income.

(8) "Nonresident business entity" means a business entity that does not have its commercial domicile in this state.

(9) "Nonresident pass-through entity taxpayer" means a pass-through entity taxpayer that is a:

(a) nonresident individual; or

(b) nonresident business entity.

(10) "Pass-through entity" means a business entity that is:

(a) the following if classified as a partnership for federal income tax purposes:

(i) a general partnership;

(ii) a limited liability company;

(iii) a limited liability partnership; or

(iv) a limited partnership;

(b) an S corporation;

(c) an estate or trust with respect to which the estate's or trust's income, gain, loss, deduction, or credit is divided among and passed through to one or more pass-though entity taxpayers; or

(d) a business entity similar to Subsections (10)(a) through (c):

(i) with respect to which the business entity's income, gain, loss, deduction, or credit is divided among and passed through to one or more pass-through entity

taxpayers; and

(ii) as defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) "Pass-through entity taxpayer" means a resident or nonresident individual, a resident or nonresident business entity, or a resident or nonresident estate or trust:

(a) that is:

(i) for a general partnership, a partner;

(ii) for a limited liability company, a member;

(iii) for a limited liability partnership, a partner;

(iv) for a limited partnership, a partner;

(v) for an S corporation, a shareholder;

(vi) for an estate or trust described in Subsection (10)(c), a beneficiary; or

(vii) for a business entity described in Subsection (10)(d), a member, partner, shareholder, or other title designated by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) to which the income, gain, loss, deduction, or credit of a pass-through entity is passed through.

(12) "Resident business entity" means a business entity that is not a nonresident business entity.

(13) "Resident pass-through entity taxpayer" means a pass-through entity taxpayer that is a:

(a) resident individual; or

(b) resident business entity.

(14) "Return" means a return that a pass-through entity taxpayer files:

(a) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes; or

(b) for a pass-through entity taxpayer that is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, under this chapter.

(15) "S corporation" is as defined in Section 1361, Internal Revenue Code.

(16) "Share of income, gain, loss, deduction, or credit of a pass-through entity" means:

(a) for a pass-through entity except for a pass-through entity that is an S corporation:

(i) for a resident pass-through entity taxpayer, the resident pass-through entity taxpayer's distributive share of income, gain, loss, deduction, or credit of the pass-through entity as determined under Section 704 et seq., Internal Revenue Code; and

(ii) for a nonresident pass-through entity taxpayer, the nonresident pass-through entity taxpayer's distributive share of income, gain, loss, deduction, or credit of the pass-through entity:

(A) as determined under Section 704 et seq., Internal Revenue Code; and

(B) derived from or connected with Utah sources; or

(b) for an S corporation:

(i) for a resident pass-through entity taxpayer, the resident pass-through entity taxpayer's pro rata share of income, gain, loss, deduction, or credit of the S corporation, as determined under Sec. 1366 et seq., Internal Revenue Code; or

(ii) for a nonresident pass-through entity taxpayer, the nonresident pass-through entity taxpayer's pro rata share of income, gain, loss, deduction, or credit of the S corporation:

(A) as determined under Section 1366 et seq., Internal Revenue Code; and

(B) derived from or connected with Utah sources.

(17) "Statement of dependent beneficiary income" means a statement:

(a) signed by the person who claims a dependent beneficiary as a dependent under Section 151, Internal Revenue Code, on the person's federal income tax return for the taxable year;

(b) attesting that the dependent is a dependent beneficiary; and

(c) indicating that the person expects that the dependent beneficiary's adjusted gross income for the taxable year will not exceed the basic standard deduction for the dependent beneficiary, as calculated under Section 63, Internal Revenue Code, for that taxable year.

Amended by Chapter 95, 2012 General Session

59-10-1403. Income tax treatment of a pass-through entity -- Returns -- Classification same as under Internal Revenue Code.

(1) Subject to Subsection (3), a pass-through entity is not subject to a tax imposed by this chapter.

(2) The income, gain, loss, deduction, or credit of a pass-through entity shall be passed through to one or more pass-through entity taxpayers as provided in this part.

(3) A pass-through entity is subject to the return filing requirements of Section 59-10-507.

(4) A pass-through entity that transacts business in the state shall be classified for purposes of taxation under this title in the same manner as the pass-through entity is classified for federal income tax purposes.

Amended by Chapter 312, 2009 General Session

59-10-1403.1. Income tax treatment of a pass-through entity taxpayer -- Return filing requirements.

(1) Subject to the other provisions of this part, a pass-through entity taxpayer is subject to taxation:

(a) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes:

(i) if that pass-through entity taxpayer is a resident pass-through entity taxpayer, as a domestic corporation is taxed under Chapter 7, Corporate Franchise and Income Taxes; or

(ii) if that pass-through entity taxpayer is a nonresident pass-through entity taxpayer, as a foreign corporation is taxed under Chapter 7, Corporate Franchise and

Income Taxes; or

(b) for a pass-through entity taxpayer that is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes:

(i) if that pass-through entity taxpayer is a resident pass-through entity taxpayer, as a resident estate, resident individual, resident partnership, resident S corporation, or resident trust is taxed under this chapter; or

(ii) if that pass-through entity taxpayer is a nonresident pass-through entity taxpayer, as a nonresident estate, nonresident individual, nonresident partnership, nonresident S corporation, or nonresident trust is taxed under this chapter.

(2) A pass-through entity taxpayer is subject to taxation on the pass-through entity taxpayer's share of income, gain, loss, deduction, or credit of the pass-through entity.

(3) (a) Subject to Subsection (3)(b)(iii), a resident pass-through entity taxpayer shall file a return:

(i) if the resident pass-through entity taxpayer is classified as a C corporation for federal income tax purposes, as a domestic corporation under Chapter 7, Corporate Franchise and Income Taxes; or

(ii) if the resident pass-through entity taxpayer is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, as a resident estate, resident individual, resident partnership, resident S corporation, or resident trust under this chapter.

(b) (i) Except as provided in Subsection (3)(b)(ii) and subject to Subsection (3)(b)(iii) or (iv), a nonresident pass-through entity taxpayer shall file a return:

(A) if the nonresident pass-through entity taxpayer is classified as a C corporation for federal income tax purposes, as a foreign corporation under Chapter 7, Corporate Franchise and Income Taxes; or

(B) if the nonresident pass-through entity taxpayer is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, as a nonresident estate, nonresident individual, nonresident partnership, nonresident S corporation, or nonresident trust under this chapter.

(ii) A nonresident pass-through entity taxpayer is not required to file a return if:

(A) the nonresident pass-through entity taxpayer does not have:

(I) for a nonresident pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes, unadjusted income as defined in Section 59-7-101 derived from or connected with Utah sources, except for the nonresident pass-through entity taxpayer's share of income, gain, loss, deduction, or credit of the pass-through entity;

(II) for a nonresident pass-through entity taxpayer that is classified as an individual, partnership, or S corporation for federal income tax purposes, adjusted gross income derived from or connected with Utah sources, except for the nonresident pass-through entity taxpayer's share of income, gain, loss, deduction, or credit of the pass-through entity; or

(III) for a nonresident pass-through entity taxpayer that is classified as an estate or a trust for federal income tax purposes, unadjusted income as defined in Section 59-10-103 derived from or connected with Utah sources, except for the nonresident

pass-through entity taxpayer's share of income, gain, loss, deduction, or credit of the pass-through entity;

(B) the nonresident pass-through entity taxpayer does not seek to claim a tax credit allowed against a tax imposed under:

(I) Chapter 7, Corporate Franchise and Income Taxes; or

(II) this chapter;

(C) the pass-through entity pays or withholds a tax on behalf of the nonresident pass-through entity taxpayer and remits that tax to the commission:

(I) in accordance with Section 59-10-1403.2; and

(II) if a nonresident pass-through entity taxpayer is classified as a C corporation for federal income tax purposes, in an amount that is equal to or greater than the minimum tax under Section 59-7-104; and

(D) the nonresident pass-through entity taxpayer is not a member of a unitary group as defined in Section 59-7-101 that is required to file a return in this state.

(iii) A nonresident pass-through entity taxpayer that is not otherwise required to file a return under this Subsection (3) may file a return under:

(A) Chapter 7, Corporate Franchise and Income Taxes; or

(B) this chapter.

(iv) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for a pass-through entity taxpayer, except for a pass-through entity taxpayer who is a resident individual, to file a return under this section if two or more pass-through entities pay or withhold a tax in accordance with Section 59-10-1403.2 on behalf of the pass-through entity taxpayer.

Enacted by Chapter 312, 2009 General Session

59-10-1403.2. Pass-through entity payment or withholding of tax on behalf of a pass-through entity taxpayer -- Exceptions to payment or withholding requirement -- Procedures and requirements -- Failure to pay or withhold a tax on behalf of a pass-through entity taxpayer.

(1) (a) Except as provided in Subsection (1)(b), for a taxable year, a pass-through entity shall pay or withhold a tax:

(i) on:

(A) the business income of the pass-through entity; and

(B) the nonbusiness income of the pass-through entity derived from or connected with Utah sources; and

(ii) on behalf of a pass-through entity taxpayer.

(b) A pass-through entity is not required to pay or withhold a tax under Subsection (1)(a):

(i) on behalf of a pass-through entity taxpayer who is a resident individual;

(ii) if the pass-through entity is an organization exempt from taxation under Subsection 59-7-102(1)(a);

(iii) if the pass-through entity:

(A) is a plan under Section 401, 408, or 457, Internal Revenue Code; and

(B) is not required to file a return under Chapter 7, Corporate Franchise and

Income Taxes, or this chapter; or

(iv) if the pass-through entity is a publicly traded partnership:

(A) as defined in Section 7704(b), Internal Revenue Code;

(B) that is classified as a partnership for federal income tax purposes; and

(C) that files an annual information return reporting the following with respect to each partner of the publicly traded partnership with income derived from or connected with Utah sources that exceeds $500 in a taxable year:

(I) the partner's name;

(II) the partner's address;

(III) the partner's taxpayer identification number; and

(IV) other information required by the commission.

(2) (a) Subject to Subsection (2)(b), the tax a pass-through entity shall pay or withhold on behalf of a pass-through entity taxpayer for a taxable year is an amount:

(i) determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) that the commission estimates will be sufficient to pay the tax liability of the pass-through entity taxpayer under this chapter with respect to the income described in Subsection (1)(a)(i) of that pass-through entity for the taxable year.

(b) The rules the commission makes in accordance with Subsection (2)(a):

(i) except as provided in Subsection (2)(c):

(A) shall:

(I) for a pass-through entity except for a pass-through entity that is an S corporation, take into account items of income, gain, loss, deduction, and credit as analyzed on the schedule for reporting partners' distributive share items as part of the federal income tax return for the pass-through entity; or

(II) for a pass-through entity that is an S corporation, take into account items of income, gain, loss, deduction, and credit as reconciled on the schedule for reporting shareholders' pro rata share items as part of the federal income tax return for the pass-through entity; and

(B) notwithstanding Subsection (2)(b)(ii)(D), take into account the refundable tax credit provided in Section 59-6-102; and

(ii) may not take into account the following items if taking those items into account does not result in an accurate estimate of a pass-through entity taxpayer's tax liability under this chapter for the taxable year:

(A) a capital loss;

(B) a passive loss;

(C) another item of deduction or loss if that item of deduction or loss is generally subject to significant reduction or limitation in calculating:

(I) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes, unadjusted income as defined in Section 59-7-101;

(II) for a pass-through entity that is classified as an individual, partnership, or S corporation for federal income tax purposes, adjusted gross income; or

(III) for a pass-through entity that is classified as an estate or a trust for federal income tax purposes, unadjusted income as defined in Section 59-10-103; or

(D) a tax credit allowed against a tax imposed under:

(I) Chapter 7, Corporate Franchise and Income Taxes; or

(II) this chapter.

(c) The rules the commission makes in accordance with Subsection (2)(a) may establish a method for taking into account items of income, gain, loss, deduction, or credit of a pass-through entity if:

(i) for a pass-through entity except for a pass-through entity that is an S corporation, the pass-through entity does not analyze the items of income, gain, loss, deduction, or credit on the schedule for reporting partners' distributive share items as part of the federal income tax return for the pass-through entity; or

(ii) for a pass-through entity that is an S corporation, the pass-through entity does not reconcile the items of income, gain, loss, deduction, or credit on the schedule for reporting shareholders' pro rata share items as part of the federal income tax return for the pass-through entity.

(3) A pass-through entity shall remit to the commission the tax the pass-through entity pays or withholds on behalf of a pass-through entity taxpayer under this section:

(a) on or before the due date of the pass-through entity's return, not including extensions; and

(b) on a form provided by the commission.

(4) A pass-through entity shall provide a statement to a pass-through entity taxpayer on behalf of whom the pass-through entity pays or withholds a tax under this section showing the amount of tax the pass-through entity pays or withholds under this section for the taxable year on behalf of the pass-through entity taxpayer.

(5) Notwithstanding Section 59-1-401 or 59-1-402, the commission may not collect an amount under this section for a taxable year from a pass-through entity and shall waive any penalty and interest on that amount if:

(a) the pass-through entity fails to pay or withhold the tax on the amount as required by this section on behalf of the pass-through entity taxpayer;

(b) the pass-through entity taxpayer:

(i) files a return on or before the due date for filing the pass-through entity's return, including extensions; and

(ii) on or before the due date including extensions described in Subsection (5)(b)(i), pays the tax on the amount for the taxable year:

(A) if the pass-through entity taxpayer is classified as a C corporation for federal income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes; or

(B) if the pass-through entity taxpayer is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, under this chapter; and

(c) the pass-through entity applies to the commission.

(6) Notwithstanding Section 59-1-401 or 59-1-402, the commission may not collect an amount under this section for a taxable year from a pass-through entity that is a trust and shall waive any penalty and interest on that amount if:

(a) the pass-through entity fails to pay or withhold the tax on the amount as required by this section on behalf of a dependent beneficiary;

(b) the pass-through entity applies to the commission; and

(c) (i) the dependent beneficiary complies with the requirements of Subsection

(5)(b); or

(ii) (A) the dependent beneficiary's adjusted gross income for the taxable year does not exceed the basic standard deduction for the dependent beneficiary, as calculated under Section 63, Internal Revenue Code, for that taxable year; and

(B) the trustee of the trust retains a statement of dependent beneficiary income on behalf of the dependent beneficiary.

(7) If a pass-through entity would have otherwise qualified for a waiver of a penalty and interest under Subsection (6), except that the trustee of a trust has not applied to the commission as required by Subsection (6)(b) or retained the statement of dependent beneficiary income required by Subsection (6)(c)(ii)(B), it is a rebuttable presumption in an audit that the pass-through entity would have otherwise qualified for the waiver of the penalty and interest under Subsection (6).

Amended by Chapter 95, 2012 General Session

59-10-1404. Character of an item of income, gain, loss, deduction, or credit.

Regardless of whether or how an item of income, gain, loss, deduction, or credit is characterized for federal income tax purposes, that item of income, gain, loss, deduction, or credit is from the same source and incurred in the same manner for a pass-through entity taxpayer as if the item of income, gain, loss, deduction, or credit is:

(1) realized directly from the source from which the item of income, gain, loss, deduction, or credit is realized by the pass-through entity; or

(2) incurred in the same manner as incurred by the pass-through entity.

Amended by Chapter 312, 2009 General Session

59-10-1404.5. Resident pass-through entity taxpayer's share of an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit of a pass-through entity.

(1) In determining the taxable income of a resident pass-through entity taxpayer, an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit of a pass-through entity shall be made in accordance with this section.

(2) For a resident pass-through entity taxpayer of a pass-through entity except for a pass-through entity that is an S corporation, the resident pass-through entity taxpayer's share of an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit is:

(a) if the item of income, gain, loss, deduction, or credit is required to be taken into account separately for federal income tax purposes, the resident pass-through entity taxpayer's distributive share of the item of income, gain, loss, deduction, or credit:

(i) for federal income tax purposes; and

(ii) determined under Section 704 et seq., Internal Revenue Code; or

(b) if the item of income, gain, loss, deduction, or credit is not required to be

taken into account separately for federal income tax purposes, determined in accordance with the resident pass-through entity taxpayer's distributive share of income, gain, loss, deduction, or credit:

(i) relating to the pass-through entity generally;

(ii) for federal income tax purposes; and

(iii) under Section 704 et seq., Internal Revenue Code.

(3) For a resident pass-through entity taxpayer of a pass-through entity that is an S corporation, the resident pass-through entity taxpayer's share of an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit is:

(a) if the item of income, gain, loss, deduction, or credit is required to be taken into account separately for federal income tax purposes, the resident pass-through entity taxpayer's pro rata share of the item of income, gain, loss, deduction, or credit:

(i) for federal income tax purposes; and

(ii) determined under Section 1366 et seq., Internal Revenue Code; or

(b) if the item of income, gain, loss, deduction, or credit is not required to be taken into account separately for federal income tax purposes, determined in accordance with the resident pass-through entity taxpayer's pro rata share of the item of income, gain, loss, deduction, or credit:

(i) relating to the pass-through entity generally;

(ii) for federal income tax purposes; and

(iii) under Section 1366 et seq., Internal Revenue Code.

Enacted by Chapter 312, 2009 General Session

59-10-1405. Nonresident pass-through entity taxpayer's share of an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit of a pass-through entity -- In determining source of nonresident pass-through entity taxpayer's income certain provisions of pass-through entity agreement may not be considered -- Rulemaking authority.

(1) (a) Except as provided in Subsection (3), in determining the taxable income of a nonresident pass-through entity taxpayer, an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit of a pass-through entity shall be made in accordance with this Subsection (1).

(b) For a nonresident pass-through entity taxpayer of a pass-through entity except for a pass-through entity that is an S corporation, the nonresident pass-through entity taxpayer's share of an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit is:

(i) if the item of income, gain, loss, deduction, or credit is required to be taken into account separately for federal income tax purposes, the nonresident pass-through entity taxpayer's distributive share of the item of income, gain, loss, deduction, or credit:

(A) for federal income tax purposes;

(B) determined under Section 704 et seq., Internal Revenue Code; and

(C) derived from or connected with Utah sources; or

(ii) if the item of income, gain, loss, deduction, or credit is not required to be taken into account separately for federal income tax purposes, determined in accordance with the nonresident pass-through entity taxpayer's distributive share of income, gain, loss, deduction, or credit:

(A) relating to the pass-through entity generally;

(B) for federal income tax purposes;

(C) under Section 704 et seq., Internal Revenue Code; and

(D) derived from or connected with Utah sources.

(c) For a nonresident pass-through entity taxpayer of a pass-through entity that is an S corporation, the nonresident pass-through entity taxpayer's share of an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit is:

(i) if the item of income, gain, loss, deduction, or credit is required to be taken into account separately for federal income tax purposes, the nonresident pass-through entity taxpayer's pro rata share of the item of income, gain, loss, deduction, or credit:

(A) for federal income tax purposes;

(B) determined under Section 1366 et seq., Internal Revenue Code; and

(C) derived from or connected with Utah sources; or

(ii) if the item of income, gain, loss, deduction, or credit is not required to be taken into account separately for federal income tax purposes, determined in accordance with the nonresident pass-through entity taxpayer's pro rata share of the item of income, gain, loss, deduction, or credit:

(A) relating to the pass-through entity generally;

(B) for federal income tax purposes;

(C) under Section 1366 et seq., Internal Revenue Code; and

(D) derived from or connected with Utah sources.

(2) In determining the source of a nonresident pass-through entity taxpayer's income, the following provisions in a pass-through entity agreement may not be considered:

(a) a provision that allocates to the nonresident pass-through entity taxpayer, as income, gain, or credit from a source outside this state, a greater proportion of the nonresident pass-through entity taxpayer's share of income, gain, or credit of the pass-through entity than the ratio of income, gain, or credit of the pass-through entity from sources outside this state to income, gain, or credit of the pass-through entity from all sources; or

(b) a provision that allocates to the nonresident pass-through entity taxpayer a greater proportion of an item of loss or deduction of the pass-through entity derived from or connected with Utah sources than the taxpayer's share of loss or deduction generally:

(i) relating to the pass-through entity; and

(ii) for federal income tax purposes.

(3) The commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, authorize the use of a calculation other than the calculation provided in Subsection (1), for determining a nonresident pass-through entity taxpayer's share of an addition, subtraction, or adjustment that relates to an item

of income, gain, loss, deduction, or credit of a pass-through entity derived from or connected with Utah sources if:

(a) the nonresident pass-through entity taxpayer applies to the commission; and

(b) the commission finds that the use of the calculation is appropriate and equitable.

Amended by Chapter 312, 2009 General Session

59-11-101. Short title.

This chapter is known as the "Inheritance Tax Act."

Renumbered and Amended by Chapter 2, 1987 General Session

59-11-102. Definitions.

As used in this chapter:

(1) "Decedent" means a deceased natural person.

(2) "Federal credit" means the maximum amount of the credit for state death taxes allowed by Section 2011 in respect to a decedent's taxable estate.

(3) "Gross estate" means "gross estate" as defined in Section 2031, Internal Revenue Code.

(4) "Nonresident" means a decedent who was domiciled outside of this state at the time of death.

(5) "Other state" means any state in the United States other than this state, the District of Columbia, or any possession or territory of the United States.

(6) "Person" includes any natural person, corporation, association, partnership, joint venture, syndicate, estate, trust, or other entity under which business or other activities may be conducted.

(7) "Personal representative" means the executor, administrator, or trustee of a decedent's estate, or, if there is no executor, administrator, or trustee appointed, qualified, and acting within this state, then any person in actual or constructive possession of any property of the decedent.

(8) "Resident" means a decedent who was domiciled in this state at the time of death.

(9) "Section 2011" means "Section 2011," Internal Revenue Code.

(10) "Taxable estate" means "taxable estate" as defined in Section 2051, Internal Revenue Code.

(11) "Transfer" means "transfer" as described in Section 2001, Internal Revenue Code.

Amended by Chapter 218, 2010 General Session

59-11-103. Tax on transfer of taxable estate of residents -- Amount -- Credit -- Property of a resident defined.

(1) A tax in the amount of the federal credit is imposed on the transfer of the taxable estate of every resident, subject to the credit provided for in Subsection (2).

(2) If any property of a resident is subject to a death tax imposed by another state for which a credit is allowed under Section 2011, and if the tax imposed by the other state is not qualified by a reciprocal provision allowing the property to be taxed in this state, the amount of tax due under this section shall be credited with the lesser of:

(a) the amount of the death tax paid the other state and credited against the federal estate tax; or

(b) an amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property subject to the death tax imposed by the other state and the denominator of which is the value of the decedent's gross estate.

(3) Property of a resident includes:

(a) real property located in this state;

(b) tangible personal property having actual situs in this state; and

(c) intangible personal property owned by the resident regardless of where it is located.

Renumbered and Amended by Chapter 2, 1987 General Session

59-11-104. Tax on transfer of taxable estate of nonresidents -- Amount -- Property of a nonresident defined -- Exemptions.

(1) A tax is imposed on the transfer of the taxable estate located in this state of every nonresident.

(2) The tax is the amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property located in this state and the denominator of which is the value of the decedent's gross estate.

(3) The property located in this state of a nonresident includes:

(a) real property and real property interests located in this state including mineral interests, royalties, production payments, leasehold interests, or working interests in oil, gas, or any other minerals;

(b) tangible personal property having actual situs in this state, including money;

(c) intangible personal property having a trade or business situs in this state, including deposits in banks, negotiable instruments, debts, receivables, shares of stock, bonds, notes, evidences of an interest in property, evidences of debt, and choses in action; and

(d) the securities of any corporation or other entity organized under the laws of this state.

(4) The transfer of the property described in Subsections (3)(c) and (3)(d) is exempt from the tax imposed by this section to the extent that the same types of property of a resident are exempt from death taxes of the other state where the nonresident resides.

Renumbered and Amended by Chapter 2, 1987 General Session

59-11-105. Tax returns -- Date to be filed -- Extensions -- Maximum time allowed.

(1) The personal representative of every estate subject to the tax imposed by

this chapter who is required by the laws of the United States to file a federal estate tax return shall file with the commission on or before the date the federal estate tax return is required to be filed:

(a) a return for the tax due under this chapter; and

(b) a copy of the federal estate tax return.

(2) If the personal representative has obtained an extension of time for filing the federal estate tax return, the filing required by Subsection (1) shall be similarly extended until the end of the time period granted in the extension of time for the federal estate tax return. Upon obtaining an extension of time for filing the federal estate tax return, the personal representative shall provide the commission with a true copy of the instrument providing for this extension.

(3) In addition to the extension of time for filing the return for the tax due under this chapter provided for under Subsection (2), the commission, upon good cause shown, may extend the time for filing this return for any further period of time determined by the commission to be proper but not beyond three years from the date the return was to have been filed under Subsection (1).

Renumbered and Amended by Chapter 2, 1987 General Session

59-11-106. Payment date -- Extensions.

(1) The tax due under this chapter shall be paid by the personal representative to the commission not later than the date when the return covering this tax is required to be filed under Section 59-11-105.

(2) When an estate has obtained an extension for payment of federal estate taxes, the commission shall extend the time for payment of the tax due under this chapter for the same period of time.

Amended by Chapter 212, 1988 General Session

59-11-107. Delinquencies -- Interest -- Penalty.

(1) Any tax due under this chapter which is not paid by the time prescribed for the filing of the return as provided under Subsection 59-11-105(1), not including any extensions in respect to the filing of the return or the payment of the tax, shall bear interest at the rate and in the manner prescribed in Section 59-1-402.

(2) If the return provided for in Section 59-11-105 is not filed within the specified time periods, the personal representative shall pay, in addition to the interest provided in Subsection (1), a penalty as provided in Section 59-1-401 in respect to the transfer for each month beyond the time periods that the return has not been filed.

Amended by Chapter 1, 1993 Special Session 2

59-11-109. Deposit of money collected -- Refund of overpayments -- Limitation.

(1) All money collected by the commission under this chapter shall be deposited as provided under Section 51-4-1.

(2) If the commission determines that a personal representative has overpaid the tax due under this chapter, the commission is authorized to refund the amount of the overpayment together with interest at the rate and in the manner prescribed under Section 59-1-402. Each claim for refund may not be initiated after three years from the date the amount of the tax was deposited as provided under Subsection (1).

Amended by Chapter 1, 1993 Special Session 2

59-11-110. Tax as lien -- Instruments issued upon payment -- Certificate of transfer.

(1) The tax provided for in this chapter, together with applicable interest and penalties as provided in Sections 59-1-401 and 59-1-402, shall be and remain a lien on the decedent's estate from the time of the death of the decedent until paid.

(2) Upon payment of the tax, together with applicable interest and penalties, the commission shall issue to the personal representative a receipt reflecting this payment, a certificate of transfer, and any other appropriate instruments reflecting this payment. If the property is not of sufficient value for a tax under this chapter to be imposed, the commission upon adequate showing to that effect shall issue a certificate of transfer and any other appropriate instruments indicating that no tax is due.

Renumbered and Amended by Chapter 2, 1987 General Session
Renumbered and Amended by Chapter 3, 1987 General Session

59-11-111. Personal representative -- Payment of tax -- Sale of property -- Liability.

(1) The personal representative has the duty to pay the tax, together with applicable interest and penalties, imposed on property under this chapter. The personal representative may sell so much of the property regardless of whether any portion of the property is included in a specific bequest or devise, as is necessary to pay the proportionate amount of the tax due under this chapter, together with applicable interest and penalties, and the fees and expenses of the sale, unless the legatee or devisee pays the personal representative the proportionate part of the tax due.

(2) Any personal representative who distributes any portion of the property without first paying the tax imposed by this chapter on that property, including applicable interest and penalties, or having another make the payment, is personally liable for the tax, including applicable interest and penalties, to the extent of the value of that portion of the property that is, or has come into, the possession of that personal representative.

Renumbered and Amended by Chapter 2, 1987 General Session

59-11-112. Personal representative -- Final account -- Approval by commission.

No final account of a personal representative in any probate proceeding who is

required to file a federal estate tax return may be allowed and approved by the court before whom the proceeding is pending unless it is shown by evidence satisfactory to the commission, and the court finds, that the tax imposed on the property by this chapter, including applicable interest and penalties, has been paid in full or that no tax is due.

Renumbered and Amended by Chapter 2, 1987 General Session

59-11-113. Administration by commission -- Taxpayer notification of change on federal estate tax return -- Assessment of deficiency -- Appeal.

(1) The commission is charged with the administration and enforcement of this chapter and may make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to effectuate the purposes of this chapter.

(2) A taxpayer shall:

(a) notify the commission within 90 days after a final determination of a change on the taxpayer's federal estate tax return if:

(i) the change is made because:

(A) the taxpayer filed an amended federal return; or

(B) of an action by the federal government; and

(ii) the change increases the taxpayer's state tax liability; and

(b) if the taxpayer is required to notify the commission of a change as provided in Subsection (2)(a)(i), file a copy of:

(i) the amended federal return; and

(ii) an amended state return that conforms to the changes on the federal return.

(3) (a) The commission may assess a deficiency in state estate taxes as a result of a change in a taxpayer's net income under Subsection (2):

(i) within three years after a taxpayer files an amended return under Subsection (2)(b) if the taxpayer files an amended return; or

(ii) within six years after the change if a taxpayer does not file an amended return under Subsection (2)(b).

(b) The amount of a deficiency assessed under Subsection (3)(a) may not exceed the amount of the increase in Utah tax attributable to the change under Subsection (2)(a).

(4) A party to a proceeding before the district court concerning a tax imposed by this chapter, including the commission, may appeal from the order, judgment, or decree entered by the district court.

Amended by Chapter 212, 2009 General Session

59-11-114. Confidentiality of information.

(1) The confidentiality of returns and other information filed with the commission shall be governed by Section 59-1-403, except that, by rule, the commission may authorize the return of an estate to be open to inspection by or disclosure to:

(a) the personal representative of the estate;

(b) any heir at law, next of kin, or beneficiary under the will of the decedent, but

only if the commission finds that this heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained in the return; or

(c) the attorney for the estate or its personal representative or the attorney-in-fact duly authorized in writing by any of the persons described in Subsection (1)(a) or (b).

(2) Reports and returns shall be preserved as provided in Section 59-1-403.

(3) Any person who violates Subsection (1) is subject to the penalty provided in Section 59-1-403.

Amended by Chapter 324, 2010 General Session

59-11-115. Effective date of chapter.

This chapter applies to all transfers of property where the decedent died on January 1, 1977, or later. The provisions of former Title 59, Chapter 12, apply to all transfers of property or estates where the decedent died prior to January 1, 1977.

Renumbered and Amended by Chapter 2, 1987 General Session

59-12-101. Short title.

This chapter is known as the "Sales and Use Tax Act."

Renumbered and Amended by Chapter 5, 1987 General Session

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2) (a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the

Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (6); and

(b) that are imposed within a local taxing jurisdiction.

(6) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-703;

(i) Section 59-12-802;

(j) Section 59-12-804;

(k) Section 59-12-1102;

(l) Section 59-12-1302;

(m) Section 59-12-1402;

(n) Section 59-12-1802;

(o) Section 59-12-2003;

(p) Section 59-12-2103;

(q) Section 59-12-2213;

(r) Section 59-12-2214;

(s) Section 59-12-2215;

(t) Section 59-12-2216;

(u) Section 59-12-2217; or

(v) Section 59-12-2218.

(7) "Aircraft" is as defined in Section 72-10-102.

(8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated

group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(9) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(10) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(11) (a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(12) (a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(13) "Area agency on aging" is as defined in Section 62A-3-101.

(14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material

through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(18) (a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (18)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is

10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (18)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(19) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (19)(a)(i).

(20) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (55) or residential use under Subsection (105).

(24) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire

within this state.

(b) (i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(25) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(26) "Computer" means an electronic device that accepts information:

(a) (i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(27) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(28) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (28)(a) and (b).

(29) (a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).

(30) "Construction materials" means any tangible personal property that will be converted into real property.

(31) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(32) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) services; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:
(i) transportation;
(ii) shipping;
(iii) postage;
(iv) handling;
(v) crating; or
(vi) packing.
(33) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.
(34) "Dietary supplement" means a product, other than tobacco, that:
(a) is intended to supplement the diet;
(b) contains one or more of the following dietary ingredients:
(i) a vitamin;
(ii) a mineral;
(iii) an herb or other botanical;
(iv) an amino acid;
(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);
(c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
(A) tablet form;
(B) capsule form;
(C) powder form;
(D) softgel form;
(E) gelcap form; or
(F) liquid form; or
(ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
(A) as conventional food; and
(B) for use as a sole item of:
(I) a meal; or
(II) the diet; and
(d) is required to be labeled as a dietary supplement:
(i) identifiable by the "Supplemental Facts" box found on the label; and
(ii) as required by 21 C.F.R. Sec. 101.36.
(35) (a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.
(b) "Digital audio work" includes a ringtone.
(36) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.
(37) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(38) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(39) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(40) (a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26-21-2;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(41) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (41)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;
(B) cure of disease;
(C) mitigation of disease;
(D) treatment of disease; or
(E) prevention of disease; or
(iii) intended to affect:
(A) the structure of the body; or
(B) any function of the body.
(b) "Drug" does not include:
(i) food and food ingredients;
(ii) a dietary supplement;
(iii) an alcoholic beverage; or
(iv) a prosthetic device.
(42) (a) Except as provided in Subsection (42)(c), "durable medical equipment" means equipment that:
(i) can withstand repeated use;
(ii) is primarily and customarily used to serve a medical purpose;
(iii) generally is not useful to a person in the absence of illness or injury; and
(iv) is not worn in or on the body.
(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (42)(a).
(c) "Durable medical equipment" does not include mobility enhancing equipment.
(43) "Electronic" means:
(a) relating to technology; and
(b) having:
(i) electrical capabilities;
(ii) digital capabilities;
(iii) magnetic capabilities;
(iv) wireless capabilities;
(v) optical capabilities;
(vi) electromagnetic capabilities; or
(vii) capabilities similar to Subsections (43)(b)(i) through (vi).
(44) "Electronic financial payment service" means an establishment:
(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
(b) that performs electronic financial payment services.
(45) "Employee" is as defined in Section 59-10-401.
(46) "Fixed guideway" means a public transit facility that uses and occupies:
(a) rail for the use of public transit; or
(b) a separate right-of-way for the use of public transit.
(47) "Fixed wing turbine powered aircraft" means an aircraft that:
(a) is powered by turbine engines;
(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(48) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(49) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (90)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(50) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (50)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(51) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(52) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(53) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a college campus of the Utah College of Applied Technology;

(ii) a school;

(iii) the State Board of Education;

(iv) the State Board of Regents; or

(v) an institution of higher education.

(54) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(55) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;
(G) textile; or
(H) rubber; and
(ii) the new products under Subsection (55)(d)(i) would otherwise be made with nonrecycled materials; or
(e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a cogeneration facility as defined in Section 54-2-1.
(56) (a) Except as provided in Subsection (56)(b), "installation charge" means a charge for installing:
(i) tangible personal property; or
(ii) a product transferred electronically.
(b) "Installation charge" does not include a charge for:
(i) repairs or renovations of:
(A) tangible personal property; or
(B) a product transferred electronically; or
(ii) attaching tangible personal property or a product transferred electronically:
(A) to other tangible personal property; and
(B) as part of a manufacturing or fabrication process.
(57) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.
(58) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:
(i) (A) a fixed term; or
(B) an indeterminate term; and
(ii) consideration.
(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.
(c) "Lease" or "rental" does not include:
(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:
(A) upon completion of required payments; and
(B) if the payment of an option price does not exceed the greater of:
(I) $100; or
(II) 1% of the total required payments; or
(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.
(d) For purposes of Subsection (58)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:
(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(59) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(60) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(61) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(62) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(63) "Manufactured home" is as defined in Section 15A-1-302.

(64) "Manufacturing facility" means:

(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (64)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(65) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;
(b) grandchild or stepgrandchild;
(c) grandparent or stepgrandparent;
(d) nephew or stepnephew;
(e) niece or stepniece;
(f) parent or stepparent;
(g) sibling or stepsibling;
(h) spouse;
(i) person who is the spouse of a person described in Subsections (65)(a) through (g); or
(j) person similar to a person described in Subsections (65)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
(66) "Mobile home" is as defined in Section 15A-1-302.
(67) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
(68) (a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:
(i) the origination point of the conveyance, routing, or transmission is not fixed;
(ii) the termination point of the conveyance, routing, or transmission is not fixed; or
(iii) the origination point described in Subsection (68)(a)(i) and the termination point described in Subsection (68)(a)(ii) are not fixed.
(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.
(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."
(69) (a) Except as provided in Subsection (69)(c), "mobility enhancing equipment" means equipment that is:
(i) primarily and customarily used to provide or increase the ability to move from one place to another;
(ii) appropriate for use in a:
(A) home; or
(B) motor vehicle; and
(iii) not generally used by persons with normal mobility.
(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (69)(a).
(c) "Mobility enhancing equipment" does not include:
(i) a motor vehicle;
(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;
(iii) durable medical equipment; or
(iv) a prosthetic device.
(70) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller’s

sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(71) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (71)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(72) (a) Subject to Subsection (72)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (72)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(73) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(74) "Modular home" means a modular unit as defined in Section 15A-1-302.

(75) "Motor vehicle" is as defined in Section 41-1a-102.

(76) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(77) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(78) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(79) (a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(80) (a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (80)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(81) "Pawnbroker" is as defined in Section 13-32a-102.

(82) "Pawn transaction" is as defined in Section 13-32a-102.

(83) (a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (83)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (83)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (83)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection (123)(c).

(84) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or

any group or combination acting as a unit.

(85) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(86) (a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(87) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(88) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(89) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and
(ii) enables the origination of a call using an:
(A) access number; or
(B) authorization code;
(c) that is dialed:
(i) manually; or
(ii) electronically; and
(d) sold in predetermined units or dollars that decline:
(i) by a known amount; and
(ii) with use.
(90) (a) "Prepared food" means:
(i) food:
(A) sold in a heated state; or
(B) heated by a seller;
(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or
(iii) except as provided in Subsection (90)(c), food sold with an eating utensil provided by the seller, including a:
(A) plate;
(B) knife;
(C) fork;
(D) spoon;
(E) glass;
(F) cup;
(G) napkin; or
(H) straw.
(b) "Prepared food" does not include:
(i) food that a seller only:
(A) cuts;
(B) repackages; or
(C) pasteurizes; or
(ii) (A) the following:
(I) raw egg;
(II) raw fish;
(III) raw meat;
(IV) raw poultry; or
(V) a food containing an item described in Subsections (90)(b)(ii)(A)(I) through (IV); and
(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (90)(b)(ii)(A) to prevent food borne illness; or
(iii) the following if sold without eating utensils provided by the seller:
(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is

manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(91) "Prescription" means an order, formula, or recipe that is issued:

(a) (i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(92) (a) Except as provided in Subsection (92)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (92)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (92)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (92)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(93) (a) "Private communication service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(94) (a) Except as provided in Subsection (94)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(95) (a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.
(c) "Prosthetic device" does not include:
(i) corrective eyeglasses; or
(ii) contact lenses.
(96) (a) "Protective equipment" means an item:
(i) for human wear; and
(ii) that is:
(A) designed as protection:
(I) to the wearer against injury or disease; or
(II) against damage or injury of other persons or property; and
(B) not suitable for general use.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
(i) listing the items that constitute "protective equipment"; and
(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.
(97) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:
(i) regardless of:
(A) characteristics;
(B) copyright;
(C) form;
(D) format;
(E) method of reproduction; or
(F) source; and
(ii) made available in printed or electronic format.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."
(98) (a) "Purchase price" and "sales price" mean the total amount of consideration:
(i) valued in money; and
(ii) for which tangible personal property, a product transferred electronically, or services are:
(A) sold;
(B) leased; or
(C) rented.
(b) "Purchase price" and "sales price" include:
(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;
(ii) expenses of the seller, including:
(A) the cost of materials used;
(B) a labor cost;
(C) a service cost;
(D) interest;
(E) a loss;

(F) the cost of transportation to the seller; or
(G) a tax imposed on the seller;
(iii) a charge by the seller for any service necessary to complete the sale; or
(iv) consideration a seller receives from a person other than the purchaser if:
(A) (I) the seller actually receives consideration from a person other than the purchaser; and
(II) the consideration described in Subsection (98)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;
(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
(D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or
(III) the price reduction or discount is identified as a third party price reduction or discount on the:
(Aa) invoice the purchaser receives; or
(Bb) certificate, coupon, or other documentation the purchaser presents.
(c) "Purchase price" and "sales price" do not include:
(i) a discount:
(A) in a form including:
(I) cash;
(II) term; or
(III) coupon;
(B) that is allowed by a seller;
(C) taken by a purchaser on a sale; and
(D) that is not reimbursed by a third party; or
(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:
(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;
(II) a financing charge; or
(III) an interest charge;
(B) a delivery charge;
(C) an installation charge;
(D) a manufacturer rebate on a motor vehicle; or
(E) a tax or fee legally imposed directly on the consumer.
(99) "Purchaser" means a person to whom:
(a) a sale of tangible personal property is made;
(b) a product is transferred electronically; or
(c) a service is furnished.
(100) "Regularly rented" means:
(a) rented to a guest for value three or more times during a calendar year; or
(b) advertised or held out to the public as a place that is regularly rented to guests for value.
(101) "Rental" is as defined in Subsection (58).
(102) (a) Except as provided in Subsection (102)(b), "repairs or renovations of tangible personal property" means:
(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or
(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:
(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and
(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.
(b) "Repairs or renovations of tangible personal property" does not include:
(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or
(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.
(103) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.
(104) (a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for

personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (104)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(105) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(106) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(107) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(108) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(109) "Sale at retail" is as defined in Subsection (106).

(110) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and
(B) to the purchaser-lessee; and
(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:
(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and
(B) account for the lease payments as payments made under a financing arrangement.
(111) "Sales price" is as defined in Subsection (98).
(112) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:
(i) sales that are directly related to the school's educational functions or activities including:
(A) the sale of:
(I) textbooks;
(II) textbook fees;
(III) laboratory fees;
(IV) laboratory supplies; or
(V) safety equipment;
(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:
(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and
(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;
(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:
(I) food and food ingredients; or
(II) prepared food; or
(D) transportation charges for official school activities; or
(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.
(b) "Sales relating to schools" does not include:
(i) bookstore sales of items that are not educational materials or supplies;
(ii) except as provided in Subsection (112)(a)(i)(B):
(A) clothing;
(B) clothing accessories or equipment;
(C) protective equipment; or
(D) sports or recreational equipment; or
(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:
(A) other than a:
(I) school;
(II) nonprofit organization authorized by a school board or a governing body of a

private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(113) For purposes of this section and Section 59-12-104, "school":

(a) means:

(i) an elementary school or a secondary school that:

(A) is a:

(I) public school; or

(II) private school; and

(B) provides instruction for one or more grades kindergarten through 12; or

(ii) a public school district; and

(b) includes the Electronic High School as defined in Section 53A-15-1002.

(114) "Seller" means a person that makes a sale, lease, or rental of:

(a) tangible personal property;

(b) a product transferred electronically; or

(c) a service.

(115) (a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (115)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(116) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(117) (a) Subject to Subsections (117)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (117)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(118) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

(119) "Solar energy" means the sun used as the sole source of energy for producing electricity.

(120) (a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

(121) "State" means the state of Utah, its departments, and agencies.

(122) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

(123) (a) Except as provided in Subsection (123)(d) or (e), "tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections (123)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

(124) (a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (124)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection (124)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (124)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (124)(b)(i) through (vi).

(125) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

(126) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software;

or

(c) telecommunications transmission equipment, machinery, or software.

(127) (a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I) (Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or
(E) video;
(ix) a radio and television audio and video programming service:
(A) regardless of the medium; and
(B) including:
(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;
(II) cable service as defined in 47 U.S.C. Sec. 522(6); or
(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;
(x) a value-added nonvoice data service; or
(xi) tangible personal property.
(128) (a) "Telecommunications service provider" means a person that:
(i) owns, controls, operates, or manages a telecommunications service; and
(ii) engages in an activity described in Subsection (128)(a)(i) for the shared use with or resale to any person of the telecommunications service.
(b) A person described in Subsection (128)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:
(i) that person; or
(ii) the telecommunications service that the person owns, controls, operates, or manages.
(129) (a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (129)(b) if that item is purchased or leased primarily for switching or routing:
(i) an ancillary service;
(ii) data communications;
(iii) voice communications; or
(iv) telecommunications service.
(b) The following apply to Subsection (129)(a):
(i) a bridge;
(ii) a computer;
(iii) a cross connect;
(iv) a modem;
(v) a multiplexer;
(vi) plug in circuitry;
(vii) a router;
(viii) software;
(ix) a switch; or
(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (129)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (129)(c).
(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (129)(b)(i) through (ix).
(130) (a) "Telecommunications transmission equipment, machinery, or software"

means an item listed in Subsection (130)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (130)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (130)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (130)(b)(i) through (xxv).

(131) (a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic

format.

(132) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

(133) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(134) (a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(135) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(136) (a) Subject to Subsection (136)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (136)(a); or

(ii) (A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(137) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (136).

(138) (a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(139) (a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(140) (a) Except as provided in Subsection (140)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

(141) "Watercraft" means a vessel as defined in Section 73-18-2.

(142) "Wind energy" means wind used as the sole source of energy to produce electricity.

(143) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Amended by Chapter 380, 2014 General Session
Amended by Chapter 380, 2014 General Session
Amended by Chapter 414, 2014 General Session

59-12-102.3. Authority to enter into agreement -- Delegates.

(1) The commission may apply to the governing board for the state to become a party to the agreement.

(2) If the state becomes a party to the agreement, the commission may:

(a) establish standards for certification of a:

(i) certified automated system; and

(ii) certified service provider;

(b) act jointly with other states that are parties to the agreement to establish performance standards for multistate sellers; and

(c) take other actions reasonably required to implement provisions of the agreement:

(i) if those actions are not in conflict with statute; and

(ii) subject to Subsection (1)(c)(i), including:

(A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopting administrative rules; and

(B) in furtherance of the agreement, jointly procuring goods or services with

other states that are parties to the agreement.

(3) Subject to Subsection (4), delegates shall be appointed to the governing board of the agreement to:

(a) assist in implementing the provisions of the agreement; and

(b) address other matters as determined by the governing board.

(4) Delegates shall be appointed as follows:

(a) two delegates shall be legislators appointed by mutual consent of the speaker of the House of Representatives and the president of the Senate; and

(b) two delegates shall be appointed by the governor, at least one of whom shall be from the commission.

Amended by Chapter 285, 2011 General Session

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement

rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70%; and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a

seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);
(C) Subsection (2)(c)(i); or
(D) Subsection (2)(d)(i)(A)(I).
(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
(3) (a) The following state taxes shall be deposited into the General Fund:
(i) the tax imposed by Subsection (2)(a)(i)(A);
(ii) the tax imposed by Subsection (2)(b)(i);
(iii) the tax imposed by Subsection (2)(c)(i); or
(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:
(i) the tax imposed by Subsection (2)(a)(ii);
(ii) the tax imposed by Subsection (2)(b)(ii);
(iii) the tax imposed by Subsection (2)(c)(ii); and
(iv) the tax imposed by Subsection (2)(d)(i)(B).
(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):
(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
(A) by a 1/16% tax rate on the transactions described in Subsection (1); and
(B) for the fiscal year; or
(ii) $17,500,000.
(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:
(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or
(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
(iii) At the end of each fiscal year:
(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;
(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and
(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.
(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount

described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1);

and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 94% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over $150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after

July 1, 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in the Transportation Fund created by Section 72-2-102.

(7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created in Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A);

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (8)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year under Subsection (8)(a).

(9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall annually deposit $90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b), and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1) to be expended to address chokepoints in construction management.

(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into the Transportation Fund any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(13) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Subsection 63M-1-3410(3) that construction on a qualified hotel, as defined in Section 63M-1-3402, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63M-1-3412.

(14) Notwithstanding Subsections (4) through (13), an amount required to be expended or deposited in accordance with Subsections (4) through (13) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

Amended by Chapter 380, 2014 General Session
Amended by Chapter 380, 2014 General Session
Amended by Chapter 429, 2014 General Session

59-12-103.1. Action by Supreme Court of the United States authorizing or action by Congress permitting a state to require certain sellers to collect a sales or use tax -- Collection of tax by commission -- Commission report to Revenue and Taxation Interim Committee -- Revenue and Taxation Interim Committee study -- Division of Finance requirement to make certain deposits.

(1) Except as provided in Section 59-12-107.1, a seller shall remit a tax to the commission as provided in Section 59-12-107 if:

(a) the Supreme Court of the United States issues a decision authorizing a state to require the following sellers to collect a sales or use tax:

(i) a seller that does not meet one or more of the criteria described in Subsection 59-12-107(2)(a); or

(ii) a seller that is not a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b); or

(b) Congress permits the state to require the following sellers to collect a sales or use tax:

(i) a seller that does not meet one or more of the criteria described in Subsection 59-12-107(2)(a); or

(ii) a seller that is not a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b).

(2) The commission shall:

(a) collect the tax described in Subsection (1) from the seller:

(i) to the extent:

(A) authorized by the Supreme Court of the United States; or

(B) permitted by Congress; and

(ii) beginning on the first day of a calendar quarter as prescribed by the Revenue and Taxation Interim Committee; and

(b) make a report to the Revenue and Taxation Interim Committee:

(i) regarding the actions taken by:

(A) the Supreme Court of the United States; or

(B) Congress;

(ii) (A) stating the amount of state revenue collected at the time of the report, if any; and

(B) estimating the state sales and use tax rate reduction that would offset the amount of state revenue estimated to be collected for the current fiscal year and the next fiscal year; and

(iii) (A) at the Revenue and Taxation Interim Committee meeting immediately following the day on which the actions of the Supreme Court of the United States or Congress become effective; and

(B) any other meeting of the Revenue and Taxation Interim Committee as requested by the chairs of the committee.

(3) The Revenue and Taxation Interim Committee shall after hearing the commission's report under Subsection (2)(b):

(a) review the actions taken by:

(i) the Supreme Court of the United States; or

(ii) Congress;

(b) direct the commission regarding the day on which the commission is required to collect the tax described in Subsection (1); and

(c) make recommendations to the Legislative Management Committee:

(i) regarding whether as a result of the actions of the Supreme Court of the United States or Congress any provisions of this chapter should be amended or repealed; and

(ii) within a one-year period after the day on which the commission makes a report under Subsection (2)(b).

(4) The Division of Finance shall deposit a portion of the revenue collected under this section into the Remote Sales Restricted Account as required by Section 59-12-103.2.

Amended by Chapter 150, 2013 General Session

59-12-103.2. Definitions -- Remote Sales Restricted Account -- Creation -- Funding for account -- Interest -- Division of Finance accounting.

(1) As used in this section:

(a) "Qualified local revenue collected from remote sellers" means the local revenue the commission collects under Section 59-12-103.1 for a fiscal year from sellers who obtain a license under Section 59-12-106 for the first time on or after the earlier of:

(i) the date a decision described in Subsection 59-12-103.1(1)(a) becomes a final, unappealable decision; or

(ii) the effective date of the action by Congress described in Subsection 59-12-103.1(1)(b).

(b) "Qualified state revenue collected from remote sellers" means the state revenue the commission collects under Section 59-12-103.1 for a fiscal year from sellers who obtain a license under Section 59-12-106 for the first time on or after the earlier of:

(i) the date a decision described in Subsection 59-12-103.1(1)(a) becomes a final, unappealable decision; or

(ii) the effective date of the action by Congress described in Subsection 59-12-103.1(1)(b).

(2) There is created within the General Fund a restricted account known as the "Remote Sales Restricted Account."

(3) The account shall be funded by:

(a) the qualified local revenue collected from remote sellers; and

(b) the qualified state revenue collected from remote sellers.

(4) (a) The account shall earn interest.

(b) The interest described in Subsection (4)(a) shall be deposited into the account.

(5) The Division of Finance shall deposit the revenue described in Subsection (3) into the account.

(6) The Division of Finance shall separately account for:

(a) (i) the qualified local revenue collected from remote sellers; and

(ii) interest earned on the amount described in Subsection (6)(a)(i); and
(b) (i) the qualified state revenue collected from remote sellers; and
(ii) interest earned on the amount described in Subsection (6)(b)(i).
(7) (a) The revenue and interest described in Subsection (6)(a) may be used to lower local sales and use tax rates as the Legislature may provide by statute.
(b) The revenue and interest described in Subsection (6)(b) may be used to lower state sales and use tax rates as the Legislature may provide by statute.

Amended by Chapter 150, 2013 General Session

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:
(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;
(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:
(a) construction materials except:
(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and
(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or
(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;
(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
(i) the proceeds of each sale do not exceed $1; and
(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and
(b) Subsection (3)(a) applies to:
(i) food and food ingredients; or
(ii) prepared food;
(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
(i) alcoholic beverages;
(ii) food and food ingredients; or
(iii) prepared food;
(b) sales of tangible personal property or a product transferred electronically:
(i) to a passenger;
(ii) by a commercial airline carrier; and
(iii) during a flight for in-flight consumption or in-flight use by the passenger; or
(c) services related to Subsection (4)(a) or (b);

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before September 30, 2011;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their

regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution;

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal

property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) (a) amounts paid or charged for a purchase or lease:

(i) by a manufacturing facility located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used:

(A) in the manufacturing process to manufacture an item sold as tangible personal property; or

(B) for a scrap recycler, to process an item sold as tangible personal property;

(b) amounts paid or charged for a purchase or lease:

(i) by an establishment:

(A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office

of the President, Office of Management and Budget; and
(B) located in the state; and
(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used in:
(A) the production process to produce an item sold as tangible personal property;
(B) research and development;
(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;
(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or
(E) preventing, controlling, or reducing dust or other pollutants from mining;
(c) amounts paid or charged for a purchase or lease:
(i) by an establishment:
(A) described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
(B) located in the state; and
(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts:
(A) are used in the operation of the web search portal; and
(B) have an economic life of three or more years;
(d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:
(i) shall by rule define the term "establishment"; and
(ii) may by rule define what constitutes:
(A) processing an item sold as tangible personal property;
(B) the production process, to produce an item sold as tangible personal property; or
(C) research and development; and
(e) on or before October 1, 2016, and every five years after October 1, 2016, the commission shall:
(i) review the exemptions described in this Subsection (14) and make recommendations to the Revenue and Taxation Interim Committee concerning whether the exemptions should be continued, modified, or repealed; and
(ii) include in its report:
(A) an estimate of the cost of the exemptions;
(B) the purpose and effectiveness of the exemptions; and
(C) the benefits of the exemptions to the state;
(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
(i) tooling;
(ii) special tooling;
(iii) support equipment;
(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:

(I) machinery;

(II) equipment;

(III) materials; or

(IV) supplies; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business,

for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new alternative energy source, as designated in the tariff by the Public Service Commission of Utah; and

(b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";
(C) "live news program"; or
(D) "live sporting event";
(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:
(i) is leased or purchased for or by a facility that:
(A) is an alternative energy electricity production facility;
(B) is located in the state; and
(C) (I) becomes operational on or after July 1, 2004; or
(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;
(ii) has an economic life of five or more years; and
(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:
(A) a wind turbine;
(B) generating equipment;
(C) a control and monitoring system;
(D) a power line;
(E) substation equipment;
(F) lighting;
(G) fencing;
(H) pipes; or
(I) other equipment used for locating a power line or pole; and
(b) this Subsection (55) does not apply to:
(i) tangible personal property used in construction of:
(A) a new alternative energy electricity production facility; or
(B) the increase in the capacity of an alternative energy electricity production facility;
(ii) contracted services required for construction and routine maintenance activities; and
(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:
(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);
(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:
(i) is leased or purchased for or by a facility that:
(A) is a waste energy production facility;
(B) is located in the state; and
(C) (I) becomes operational on or after July 1, 2004; or
(II) has its generation capacity increased by one or more megawatts on or after

July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in

capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter; and

(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a refund:

(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by this Subsection (58) for the sale prior to filing for the refund;

(iv) for sales and use taxes paid under this chapter on the sale;

(v) in accordance with Section 59-1-1410; and

(vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if the person files for the refund on or before June 30, 2011;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63)

as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive

engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 59-7-612;

(B) in the state; and

(C) with respect to which the purchaser pays or incurs a qualified research expense as defined in Section 59-7-612; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter;

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter; and

(c) on or before the November 2018 interim meeting, and every five years after the November 2018 interim meeting, the commission shall review the exemption provided in this Subsection (76) and report to the Revenue and Taxation Interim Committee on:

(i) the revenue lost to the state and local taxing jurisdictions as a result of the exemption;

(ii) the purpose and effectiveness of the exemption; and

(iii) whether the exemption benefits the state;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audiowork;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and
(ii) have an economic life of three or more years; and
(b) normal operating repair or replacement parts that:
(i) are used in the operation of the electronic financial payment service; and
(ii) have an economic life of three or more years;
(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:
(a) is stored, used, or consumed in the state; and
(b) is temporarily brought into the state from another state:
(i) during a disaster period as defined in Section 53-2a-1202;
(ii) by an out-of-state business as defined in Section 53-2a-1202;
(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202; and
(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program.

Amended by Chapter 24, 2014 General Session
Amended by Chapter 27, 2014 General Session
Amended by Chapter 122, 2014 General Session
Amended by Chapter 376, 2014 General Session
Amended by Chapter 380, 2014 General Session

59-12-104.1. Exemptions for religious or charitable institutions.
(1) Except as provided in Section 59-12-104, sales made by religious or charitable institutions or organizations are exempt from the sales and use tax imposed by this chapter if the sale is made in the conduct of the institution's or organization's regular religious or charitable functions or activities.
(2) (a) Except as provided in Section 59-12-104, sales made to a religious or charitable institution or organization are exempt from the sales and use tax imposed by this chapter if the sale is made in the conduct of the institution's or organization's regular religious or charitable functions and activities.
(b) In order to facilitate the efficient administration of the exemption granted by this section, the exemption shall be administered as follows:
(i) the exemption shall be at point of sale if the sale is in the amount of at least $1,000;
(ii) except as provided in Subsection (2)(b)(iii), if the sale is less than $1,000, the exemption shall be in the form of a refund of sales or use taxes paid at the point of sale; and
(iii) notwithstanding Subsection (2)(b)(ii), the exemption under this section shall

be at point of sale if the sale is:

(A) made pursuant to a contract between the seller and the charitable or religious institution or organization; or

(B) made by a public utility, as defined in Section 54-2-1, to a religious or charitable institution or organization.

(3) (a) Religious or charitable institutions or organizations entitled to a refund under Subsection (2)(b)(ii) may apply to the commission for the refund of sales or use taxes paid.

(b) The commission shall designate the following by commission rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) procedures for applying for a sales and use tax refund;

(ii) standards for determining and verifying the amount of purchase at the point of sale;

(iii) procedures for submitting a request for refund on a monthly basis anytime the taxpayer has accumulated $100 or more in sales tax payments; and

(iv) procedures for submitting a request for refund on a quarterly basis for any cumulative amount of sales tax payments.

Amended by Chapter 382, 2008 General Session

59-12-104.2. Exemption for accommodations and services taxed by the Navajo Nation.

(1) As used in this section "tribal taxing area" means the geographical area that:

(a) is subject to the taxing authority of the Navajo Nation; and

(b) consists of:

(i) notwithstanding the issuance of a patent, all land:

(A) within the limits of an Indian reservation under the jurisdiction of the federal government; and

(B) including any rights-of-way running through the reservation; and

(ii) all Indian allotments the Indian titles to which have not been extinguished, including any rights-of-way running through an Indian allotment.

(2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I) to the extent permitted under Subsection (2)(b) if:

(i) the accommodations and services described in Subsection 59-12-103(1)(i) are provided within:

(A) the state; and

(B) a tribal taxing area;

(ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);

(iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without regard to whether or not the purchaser that pays or is charged for the accommodations and services is an enrolled member of the Navajo Nation; and

(iv) the requirements of Subsection (4) are met.

(b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for accommodations and services described in Subsection (2)(a) are subject to a tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I):

(i) the seller shall collect and pay to the state the difference described in Subsection (3) if that difference is greater than $0; and

(ii) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (3) is equal to or less than $0.

(3) The difference described in Subsection (2)(b) is equal to the difference between:

(a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I) on the amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i); less

(b) the tax imposed and collected by the Navajo Nation on the amounts paid by or charged to a purchaser for the accommodations and services described in Subsection 59-12-103(1)(i).

(4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under Subsection (2) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(b) from the Navajo Nation.

(b) The notice described in Subsection (4)(a) shall state:

(i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i);

(ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i); and

(iii) the new rate of the tax described in Subsection (4)(b)(i).

(5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:

(a) shall review the exemption provided for in this section one or more times every five years;

(b) shall determine on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the exemption provided for in this section whether the exemption should be:

(i) continued;

(ii) modified; or

(iii) repealed; and

(c) may review any other issue related to the exemption provided for in this section as determined by the Revenue and Taxation Interim Committee.

Amended by Chapter 203, 2009 General Session

59-12-104.3. Credit for certain repossessions of a motor vehicle.

(1) (a) Subject to Subsections (2) and (3), a seller that collects a tax under this chapter on the sale of a motor vehicle may claim a credit for a tax under this chapter for a motor vehicle that:

(i) has been repossessed; and

(ii) that the seller resells.

(b) A seller of a motor vehicle other than the seller that collects a tax under this chapter on the sale of that motor vehicle may claim a credit for a tax under this chapter:

(i) for a motor vehicle that the seller:

(A) repossessed; and

(B) resells; and

(ii) if the seller that collected the tax under this chapter on that motor vehicle:

(A) is no longer doing business in this state; and

(B) does not owe a tax under this chapter.

(2) The amount of the credit allowed by Subsection (1) is equal to the product of:

(a) the portion of the motor vehicle's purchase price that:

(i) was subject to a tax under this chapter; and

(ii) remains unpaid after the motor vehicle is resold; and

(b) the sum of the tax rates imposed:

(i) under this chapter;

(ii) on the motor vehicle's purchase price; and

(iii) on the date the motor vehicle was purchased by the person that owns the motor vehicle at the time of the repossession.

(3) Except as provided in Subsection (4), if a seller recovers any portion of a motor vehicle's unpaid purchase price that is used to calculate a credit allowed by Subsection (1)(b), the seller shall report and remit a tax under this chapter to the commission:

(a) on the portion of the motor vehicle's unpaid purchase price that:

(i) the seller recovers; and

(ii) is used to calculate the credit allowed by Subsection (1)(b); and

(b) on a return filed for the time period for which the portion of the motor vehicle's unpaid purchase price is recovered.

(4) A credit under this section may not be reduced by any amount of a motor vehicle's unpaid purchase price that a seller recovers as a result of reselling the vehicle, regardless of whether that amount is included in calculating a credit under this section.

Amended by Chapter 9, 2007 General Session
Amended by Chapter 120, 2007 General Session

59-12-104.4. Seller recordkeeping for purposes of higher education textbook exemption -- Rulemaking authority.

(1) If a seller described in Subsection 59-12-104(71)(b) makes a sale of a textbook for a higher education course that is exempt under Subsection 59-12-104(71),

the seller shall keep a record verifying that the textbook is a textbook for a higher education course.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) prescribing the records a seller shall keep to verify that a textbook is a textbook for a higher education course; or

(b) to verify that 51% or more of a seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course.

Enacted by Chapter 314, 2011 General Session

59-12-104.5. Revenue and Taxation Interim Committee review of sales and use taxes.

The Revenue and Taxation Interim Committee shall:

(1) review Subsection 59-12-104(28) before October 1 of the year after the year in which Congress permits a state to participate in the special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on purchases of food under that program;

(2) review Subsection 59-12-104(21) before October 1 of the year after the year in which Congress permits a state to participate in the SNAP as defined in Section 35A-1-102, even if state or local sales taxes are collected within the state on purchases of food under that program; and

(3) review Subsection 59-12-104(62) before the October 2011 interim meeting.

Amended by Chapter 41, 2012 General Session

59-12-104.6. Procedure for claiming a sales and use tax exemption for certain lodging related purchases -- Rulemaking authority -- Applicability of section.

(1) As used in this section:

(a) "Designated establishment within the lodging industry" means an establishment described in NAICS Code 721110 or 721191 of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

(b) "Exempt purchaser" means a person that:

(i) makes a lodging related purchase; and

(ii) may claim an exemption from a tax under this chapter for the purchase.

(c) "Lodging related purchase" means the purchase of the following from a seller that is a designated establishment within the lodging industry:

(i) accommodations and services described in Subsection 59-12-103(1)(i); or

(ii) any other tangible personal property, product, or service that is:

(A) purchased as part of a transaction that includes the purchase of accommodations and services described in Subsection (1)(c)(i); and

(B) included on the invoice, bill of sale, or similar document provided to the purchaser of the accommodations and services described in Subsection (1)(c)(i).

(2) Except as provided in Subsection (3), an exempt purchaser that makes a lodging related purchase:

(a) shall pay a tax that would otherwise be imposed under this chapter on the lodging related purchase but for the purchaser being allowed to claim an exemption from a tax under this chapter for the purchase; and

(b) may apply to the commission for a refund of the tax described in Subsection (2)(a) that the purchaser pays.

(3) An exempt purchaser that makes a lodging related purchase may claim an exemption from a tax under this chapter at the point of sale if the exempt purchaser:

(a) is an agency or instrumentality of the United States;

(b) is exempt from a tax under this chapter on a lodging related purchase as authorized by a diplomatic tax exemption card issued by the United States; or

(c) may claim the exemption at the point of sale in accordance with Section 59-12-104.1.

(4) An exempt purchaser that applies to the commission for a refund may not make an application to the commission for a refund more frequently than monthly.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing:

(a) procedures for applying for a refund under this section;

(b) standards for determining and verifying the amount of a lodging related purchase by an exempt purchaser; and

(c) procedures for claiming a refund on a monthly basis.

(6) This section does not apply to amounts taxed by the Navajo Nation that are exempt from sales and use taxes in accordance with Section 59-12-104.2.

Enacted by Chapter 288, 2011 General Session

59-12-106. Definitions -- Sales and use tax license requirements -- Penalty -- Application process and requirements -- No fee -- Bonds -- Presumption of taxability -- Exemption certificates -- Exemption certificate license number to accompany contract bids.

(1) As used in this section:

(a) "applicant" means a person that:

(i) is required by this section to obtain a license; and

(ii) submits an application:

(A) to the commission; and

(B) for a license under this section;

(b) "application" means an application for a license under this section;

(c) "fiduciary of the applicant" means a person that:

(i) is required to collect, truthfully account for, and pay over a tax under this chapter for an applicant; and

(ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

(B) is a director of the applicant described in Subsection (1)(c)(i);

(C) is an employee of the applicant described in Subsection (1)(c)(i);

(D) is a partner of the applicant described in Subsection (1)(c)(i);

(E) is a trustee of the applicant described in Subsection (1)(c)(i); or

(F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) "fiduciary of the licensee" means a person that:

(i) is required to collect, truthfully account for, and pay over a tax under this chapter for a licensee; and

(ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);

(B) is a director of the licensee described in Subsection (1)(d)(i);

(C) is an employee of the licensee described in Subsection (1)(d)(i);

(D) is a partner of the licensee described in Subsection (1)(d)(i);

(E) is a trustee of the licensee described in Subsection (1)(d)(i); or

(F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(e) "license" means a license under this section; and

(f) "licensee" means a person that is licensed under this section by the commission.

(2) (a) It is unlawful for any person required to collect a tax under this chapter to engage in business within the state without first having obtained a license to do so.

(b) The license described in Subsection (2)(a):

(i) shall be granted and issued by the commission;

(ii) is not assignable;

(iii) is valid only for the person in whose name the license is issued;

(iv) is valid until:

(A) the person described in Subsection (2)(b)(iii):

(I) ceases to do business; or

(II) changes that person's business address; or

(B) the license is revoked by the commission; and

(v) subject to Subsection (2)(d), shall be granted by the commission only upon an application that:

(A) states the name and address of the applicant; and

(B) provides other information the commission may require.

(c) At the time an applicant makes an application under Subsection (2)(b)(v), the commission shall notify the applicant of the responsibilities and liability of a business owner successor under Section 59-12-112.

(d) The commission shall review an application and determine whether the applicant:

(i) meets the requirements of this section to be issued a license; and

(ii) is required to post a bond with the commission in accordance with Subsections (2)(e) and (f) before the applicant may be issued a license.

(e) (i) An applicant shall post a bond with the commission before the commission may issue the applicant a license if:

(A) a license under this section was revoked for a delinquency under this chapter for:

(I) the applicant;

(II) a fiduciary of the applicant; or

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(B) there is a delinquency in paying a tax under this chapter for:

(I) the applicant;

(II) a fiduciary of the applicant; or

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter.

(ii) If the commission determines it is necessary to ensure compliance with this chapter, the commission may require a licensee to:

(A) for a licensee that has not posted a bond under this section with the commission, post a bond with the commission in accordance with Subsection (2)(f); or

(B) for a licensee that has posted a bond under this section with the commission, increase the amount of the bond posted with the commission.

(f) (i) A bond required by Subsection (2)(e) shall be:

(A) executed by:

(I) for an applicant, the applicant as principal, with a corporate surety; or

(II) for a licensee, the licensee as principal, with a corporate surety; and

(B) payable to the commission conditioned upon the faithful performance of all of the requirements of this chapter including:

(I) the payment of any tax under this chapter;

(II) the payment of any:

(Aa) penalty as provided in Section 59-1-401; or

(Bb) interest as provided in Section 59-1-402; or

(III) any other obligation of the:

(Aa) applicant under this chapter; or

(Bb) licensee under this chapter.

(ii) Except as provided in Subsection (2)(f)(iv), the commission shall calculate the amount of a bond required by Subsection (2)(e) on the basis of:

(A) commission estimates of:

(I) an applicant's tax liability under this chapter; or

(II) a licensee's tax liability under this chapter; and

(B) any amount of a delinquency described in Subsection (2)(f)(iii).

(iii) Except as provided in Subsection (2)(f)(iv), for purposes of Subsection (2)(f)(ii)(B):

(A) for an applicant, the amount of the delinquency is the sum of:

(I) the amount of any delinquency that served as a basis for revoking the license under this section of:

(Aa) the applicant;

(Bb) a fiduciary of the applicant; or

(Cc) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or

(II) the amount of tax that any of the following owe under this chapter:
(Aa) the applicant;
(Bb) a fiduciary of the applicant; and
(Cc) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this chapter; or
(B) for a licensee, the amount of the delinquency is the sum of:
(I) the amount of any delinquency that served as a basis for revoking the license under this section of:
(Aa) the licensee;
(Bb) a fiduciary of the licensee; or
(Cc) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this chapter; or
(II) the amount of tax that any of the following owe under this chapter:
(Aa) the licensee;
(Bb) a fiduciary of the licensee; and
(Cc) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this chapter.
(iv) Notwithstanding Subsection (2)(f)(ii) or (2)(f)(iii), a bond required by Subsection (2)(e) may not:
(A) be less than $25,000; or
(B) exceed $500,000.
(g) If business is transacted at two or more separate places by one person, a separate license for each place of business is required.
(h) (i) The commission shall, on a reasonable notice and after a hearing, revoke the license of any licensee violating any provisions of this chapter.
(ii) A license may not be issued to a licensee described in Subsection (2)(h)(i) until the licensee has complied with the requirements of this chapter, including:
(A) paying any:
(I) tax due under this chapter;
(II) penalty as provided in Section 59-1-401; or
(III) interest as provided in Section 59-1-402; and
(B) posting a bond in accordance with Subsections (2)(e) and (f).
(i) Any person required to collect a tax under this chapter within this state without having secured a license to do so is guilty of a criminal violation as provided in Section 59-1-401.
(j) A license:
(i) is not required for any person engaged exclusively in the business of selling commodities that are exempt from taxation under this chapter; and
(ii) shall be issued to the person by the commission without a license fee.
(3) (a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax and the duty to collect the tax, it shall be presumed that tangible personal property or any other taxable transaction under Subsection 59-12-103(1) sold by any person for delivery in this state is sold for storage, use, or other consumption in this state unless the person selling the property, item, or service has taken from the purchaser an exemption certificate:

(i) bearing the name and address of the purchaser; and

(ii) providing that the property, item, or service was exempted under Section 59-12-104.

(b) An exemption certificate described in Subsection (3)(a):

(i) shall contain information as prescribed by the commission; and

(ii) if a paper exemption certificate is used, shall be signed by the purchaser.

(c) (i) Subject to Subsection (3)(c)(ii), a seller or certified service provider is not liable to collect a tax under this chapter if the seller or certified service provider obtains within 90 days after a transaction is complete:

(A) an exemption certificate containing the information required by Subsections (3)(a) and (b); or

(B) the information required by Subsections (3)(a) and (b).

(ii) A seller or certified service provider that does not obtain the exemption certificate or information described in Subsection (3)(c)(i) with respect to a transaction is allowed 120 days after the commission requests the seller or certified service provider to substantiate the exemption to:

(A) establish that the transaction is not subject to taxation under this chapter by a means other than providing an exemption certificate containing the information required by Subsections (3)(a) and (b); or

(B) subject to Subsection (3)(c)(iii), obtain an exemption certificate containing the information required by Subsections (3)(a) and (b), taken in good faith.

(iii) For purposes of Subsection (3)(c)(ii)(B), an exemption certificate is taken in good faith if the exemption certificate claims an exemption that:

(A) was allowed by statute on the date of the transaction in the jurisdiction of the location of the transaction;

(B) could be applicable to that transaction; and

(C) is reasonable for the purchaser's type of business.

(d) Except as provided in Subsection (3)(e), a seller or certified service provider that takes an exemption certificate from a purchaser in accordance with this Subsection (3) with respect to a transaction is not liable to collect a tax under this chapter on that transaction.

(e) Subsection (3)(d) does not apply to a seller or certified service provider if the commission establishes through an audit that the seller or certified service provider:

(i) knew or had reason to know at the time the purchaser provided the seller or certified service provider the information described in Subsection (3)(a) or (b) that the information related to the exemption claimed was materially false; or

(ii) otherwise knowingly participated in activity intended to purposefully evade the tax due on the transaction.

(f) (i) Subject to Subsection (3)(f)(ii) and except as provided in Subsection (3)(f)(iii), if there is a recurring business relationship between a seller or certified service provider and a purchaser, the commission may not require the seller or certified service provider to:

(A) renew an exemption certificate;

(B) update an exemption certificate; or

(C) update a data element of an exemption certificate.

(ii) For purposes of Subsection (3)(f)(i), a recurring business relationship exists if no more than a 12-month period elapses between transactions between a seller or certified service provider and a purchaser.

(iii) If there is a recurring business relationship between a seller or certified service provider and a purchaser, the commission shall require an exemption certificate the seller or certified service provider takes from the purchaser to meet the requirements of Subsections (3)(a) and (b).

(4) A person filing a contract bid with the state or a political subdivision of the state for the sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1) shall include with the bid the number of the license issued to that person under Subsection (2).

Amended by Chapter 285, 2011 General Session

59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties and interest.

(1) As used in this section:

(a) "Ownership" means direct ownership or indirect ownership through a parent, subsidiary, or affiliate.

(b) "Related seller" means a seller that:

(i) meets one or more of the criteria described in Subsection (2)(a)(i); and

(ii) delivers tangible personal property, a service, or a product transferred electronically that is sold:

(A) by a seller that does not meet one or more of the criteria described in Subsection (2)(a)(i); and

(B) to a purchaser in the state.

(c) "Substantial ownership interest" means an ownership interest in a business entity if that ownership interest is greater than the degree of ownership of equity interest specified in 15 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

(2) (a) Except as provided in Subsection (2)(e), Section 59-12-107.1, or Section 59-12-123, and subject to Subsection (2)(f), each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the seller:

(i) has or utilizes:

(A) an office;

(B) a distribution house;

(C) a sales house;

(D) a warehouse;

(E) a service enterprise; or

(F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

(ii) maintains a stock of goods;

(iii) regularly solicits orders, regardless of whether or not the orders are accepted in the state, unless the seller's only activity in the state is:

(A) advertising; or
(B) solicitation by:
(I) direct mail;
(II) electronic mail;
(III) the Internet;
(IV) telecommunications service; or
(V) a means similar to Subsection (2)(a)(iii)(A) or (B);
(iv) regularly engages in the delivery of property in the state other than by:
(A) common carrier; or
(B) United States mail; or
(v) regularly engages in an activity directly related to the leasing or servicing of property located within the state.
(b) A seller is considered to be engaged in the business of selling tangible personal property, a service, or a product transferred electronically for use in the state, and shall pay or collect and remit the sales and use taxes imposed by this chapter if:
(i) the seller holds a substantial ownership interest in, or is owned in whole or in substantial part by, a related seller; and
(ii) (A) the seller sells the same or a substantially similar line of products as the related seller and does so under the same or a substantially similar business name; or
(B) the place of business described in Subsection (2)(a)(i) of the related seller or an in state employee of the related seller is used to advertise, promote, or facilitate sales by the seller to a purchaser.
(c) A seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection (2)(b):
(i) except as provided in Subsection (2)(c)(ii), may voluntarily:
(A) collect a tax on a transaction described in Subsection 59-12-103(1); and
(B) remit the tax to the commission as provided in this part; or
(ii) notwithstanding Subsection (2)(c)(i), shall collect a tax on a transaction described in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.
(d) The collection and remittance of a tax under this chapter by a seller that is registered under the agreement may not be used as a factor in determining whether that seller is required by Subsection (2) to:
(i) pay a tax, fee, or charge under:
(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
(C) Section 19-6-714;
(D) Section 19-6-805;
(E) Section 69-2-5;
(F) Section 69-2-5.5;
(G) Section 69-2-5.6; or
(H) this title; or
(ii) collect and remit a tax, fee, or charge under:
(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
(C) Section 19-6-714;
(D) Section 19-6-805;
(E) Section 69-2-5;
(F) Section 69-2-5.5;
(G) Section 69-2-5.6; or
(H) this title.

(e) A person shall pay a use tax imposed by this chapter on a transaction described in Subsection 59-12-103(1) if:

(i) the seller did not collect a tax imposed by this chapter on the transaction; and

(ii) the person:

(A) stores the tangible personal property or product transferred electronically in the state;

(B) uses the tangible personal property or product transferred electronically in the state; or

(C) consumes the tangible personal property or product transferred electronically in the state.

(f) The ownership of property that is located at the premises of a printer's facility with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced, shall not result in the retailer being considered to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.

(3) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be collected from a purchaser.

(b) A seller may not collect as tax an amount, without regard to fractional parts of one cent, in excess of the tax computed at the rates prescribed by this chapter.

(c) (i) Each seller shall:

(A) give the purchaser a receipt for the tax collected; or

(B) bill the tax as a separate item and declare the name of this state and the seller's sales and use tax license number on the invoice for the sale.

(ii) The receipt or invoice is prima facie evidence that the seller has collected the tax and relieves the purchaser of the liability for reporting the tax to the commission as a consumer.

(d) A seller is not required to maintain a separate account for the tax collected, but is considered to be a person charged with receipt, safekeeping, and transfer of public money.

(e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the benefit of the state and for payment to the commission in the manner and at the time provided for in this chapter.

(f) If any seller, during any reporting period, collects as a tax an amount in excess of the lawful state and local percentage of total taxable sales allowed under this chapter, the seller shall remit to the commission the full amount of the tax imposed under this chapter, plus any excess.

(g) If the accounting methods regularly employed by the seller in the transaction

of the seller's business are such that reports of sales made during a calendar month or quarterly period will impose unnecessary hardships, the commission may accept reports at intervals that will, in the commission's opinion, better suit the convenience of the taxpayer or seller and will not jeopardize collection of the tax.

(h) (i) For a purchase paid with specie legal tender as defined in Section 59-1-1501.1, and until such time as the commission accepts specie legal tender for the payment of a tax under this chapter, if the commission requires a seller to remit a tax under this chapter in legal tender other than specie legal tender, the seller shall state on the seller's books and records and on an invoice, bill of sale, or similar document provided to the purchaser:

(A) the purchase price in specie legal tender and in the legal tender the seller is required to remit to the commission;

(B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie legal tender and in the legal tender the seller is required to remit to the commission;

(C) the tax rate under this chapter applicable to the purchase; and

(D) the date of the purchase.

(ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the specie legal tender the purchaser paid.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the amount of tax due under Subsection (3)(h)(i) if the London fixing price is not available for a particular day.

(4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission quarterly on or before the last day of the month next succeeding each calendar quarterly period.

(b) (i) Each seller shall, on or before the last day of the month next succeeding each calendar quarterly period, file with the commission a return for the preceding quarterly period.

(ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the tax required under this chapter to be collected or paid for the period covered by the return.

(c) Except as provided in Subsection (5)(c), a return shall contain information and be in a form the commission prescribes by rule.

(d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be based on the total nonexempt sales made during the period for which the return is filed, including both cash and charge sales.

(ii) For a sale that includes the delivery or installation of tangible personal property at a location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery or installation is separately stated on an invoice or receipt, a seller may compute the tax due on the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that sale during each period for which the seller receives payment for the sale.

(e) (i) The use tax as computed in the return shall be based on the total amount

of purchases for storage, use, or other consumption in this state made during the period for which the return is filed, including both cash and charge purchases.

(ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser who is required to remit taxes under this chapter, but is not required to remit taxes monthly in accordance with Section 59-12-108, and who converts tangible personal property into real property.

(B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the taxes due under this chapter on tangible personal property for which the qualifying purchaser claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C), for the conversion of the tangible personal property into real property.

(C) A qualifying purchaser remitting taxes due under this chapter in accordance with Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the qualifying purchaser's purchase of the tangible personal property that was converted into real property multiplied by a fraction, the numerator of which is the payment received in the period for the qualifying purchaser's sale of the tangible personal property that was converted into real property and the denominator of which is the entire sales price for the qualifying purchaser's sale of the tangible personal property that was converted into real property.

(D) A qualifying purchaser may remit taxes due under this chapter in accordance with this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule extend the time for making returns and paying the taxes.

(ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

(g) The commission may require returns and payment of the tax to be made for other than quarterly periods if the commission considers it necessary in order to ensure the payment of the tax imposed by this chapter.

(h) (i) The commission may require a seller that files a simplified electronic return with the commission to file an additional electronic report with the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing:

(A) the information required to be included in the additional electronic report described in Subsection (4)(h)(i); and

(B) one or more due dates for filing the additional electronic report described in Subsection (4)(h)(i).

(5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a seller that is:

(i) registered under the agreement;

(ii) described in Subsection (2)(c); and

(iii) not a:

(A) model 1 seller;
(B) model 2 seller; or
(C) model 3 seller.
(b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in accordance with Subsection (2)(c) is due and payable:
(A) to the commission;
(B) annually; and
(C) on or before the last day of the month immediately following the last day of each calendar year.
(ii) The commission may require that a tax a remote seller collects in accordance with Subsection (2)(c) be due and payable:
(A) to the commission; and
(B) on the last day of the month immediately following any month in which the seller accumulates a total of at least $1,000 in agreement sales and use tax.
(c) (i) If a remote seller remits a tax to the commission in accordance with Subsection (5)(b), the remote seller shall file a return:
(A) with the commission;
(B) with respect to the tax;
(C) containing information prescribed by the commission; and
(D) on a form prescribed by the commission.
(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules prescribing:
(A) the information required to be contained in a return described in Subsection (5)(c)(i); and
(B) the form described in Subsection (5)(c)(i)(D).
(d) A tax a remote seller collects in accordance with this Subsection (5) shall be calculated on the basis of the total amount of taxable transactions under Subsection 59-12-103(1) the remote seller completes, including:
(i) a cash transaction; and
(ii) a charge transaction.
(6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified electronic return collects in accordance with this chapter is due and payable:
(i) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and
(ii) for the month for which the seller collects a tax under this chapter.
(b) A tax a remote seller that files a simplified electronic return collects in accordance with this chapter is due and payable as provided in Subsection (5).
(7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or registration under the laws of this state.
(b) The commission shall collect the tax described in Subsection (7)(a) when the vehicle is titled or registered.
(8) If any sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not responsible for the collection or payment of the tax imposed on the sale and the

retailer is responsible for the collection or payment of the tax imposed on the sale if:

(a) the retailer represents that the personal property is purchased by the retailer for resale; and

(b) the personal property is not subsequently resold.

(9) If any sale of property or service subject to the tax is made to a person prepaying sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a contractor or subcontractor of that person, the person to whom such payment or consideration is payable is not responsible for the collection or payment of the sales or use tax and the person prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission.

(10) (a) For purposes of this Subsection (10):

(i) Except as provided in Subsection (10)(a)(ii), "bad debt" is as defined in Section 166, Internal Revenue Code.

(ii) Notwithstanding Subsection (10)(a)(i), "bad debt" does not include:

(A) an amount included in the purchase price of tangible personal property, a product transferred electronically, or a service that is:

(I) not a transaction described in Subsection 59-12-103(1); or

(II) exempt under Section 59-12-104;

(B) a financing charge;

(C) interest;

(D) a tax imposed under this chapter on the purchase price of tangible personal property, a product transferred electronically, or a service;

(E) an uncollectible amount on tangible personal property or a product transferred electronically that:

(I) is subject to a tax under this chapter; and

(II) remains in the possession of a seller until the full purchase price is paid;

(F) an expense incurred in attempting to collect any debt; or

(G) an amount that a seller does not collect on repossessed property.

(b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax under this chapter is calculated on a return.

(ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on the qualifying purchaser's purchase of tangible personal property converted into real property to the extent that:

(A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal property converted into real property;

(B) the qualifying purchaser's sale of that tangible personal property converted into real property later becomes bad debt; and

(C) the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(c) A seller may file a refund claim with the commission if:

(i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same time period; and

(ii) as provided in Section 59-1-1410.

(d) A bad debt deduction under this section may not include interest.

(e) A bad debt may be deducted under this Subsection (10) on a return for the time period during which the bad debt:

(i) is written off as uncollectible in the seller's books and records; and

(ii) would be eligible for a bad debt deduction:

(A) for federal income tax purposes; and

(B) if the seller were required to file a federal income tax return.

(f) If a seller recovers any portion of bad debt for which the seller makes a deduction or claims a refund under this Subsection (10), the seller shall report and remit a tax under this chapter:

(i) on the portion of the bad debt the seller recovers; and

(ii) on a return filed for the time period for which the portion of the bad debt is recovered.

(g) For purposes of reporting a recovery of a portion of bad debt under Subsection (10)(f), a seller shall apply amounts received on the bad debt in the following order:

(i) in a proportional amount:

(A) to the purchase price of the tangible personal property, product transferred electronically, or service; and

(B) to the tax due under this chapter on the tangible personal property, product transferred electronically, or service; and

(ii) to:

(A) interest charges;

(B) service charges; and

(C) other charges.

(h) A seller's certified service provider may make a deduction or claim a refund for bad debt on behalf of the seller:

(i) in accordance with this Subsection (10); and

(ii) if the certified service provider credits or refunds the entire amount of the bad debt deduction or refund to the seller.

(i) A seller may allocate bad debt among the states that are members of the agreement if the seller's books and records support that allocation.

(11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full amount of tax required by this chapter.

(b) A violation of this section is punishable as provided in Section 59-1-401.

(c) Each person who fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts determined to be due by the commission under Chapter 1, Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time required by this chapter, or who fails to file any return as required by this chapter, shall pay, in addition to the tax, penalties and

interest as provided in Sections 59-1-401 and 59-1-402.

(d) For purposes of prosecution under this section, each quarterly tax period in which a seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the tax required to be remitted, constitutes a separate offense.

Amended by Chapter 178, 2012 General Session
Amended by Chapter 312, 2012 General Session
Amended by Chapter 399, 2012 General Session

59-12-107.1. Direct payment permit.

(1) The commission may issue a direct payment permit to a seller that:

(a) obtains a license under Section 59-12-106;

(b) makes aggregate purchases of at least $1,500,000 for each of the three years prior to the year in which the commission issues the direct payment permit to the seller;

(c) has a record of timely payment of taxes under this chapter as determined by the commission; and

(d) demonstrates to the commission that the seller has the ability to determine the appropriate location of a transaction:

(i) under:

(A) Section 59-12-211;

(B) Section 59-12-212; or

(C) Section 59-12-213; and

(ii) for each transaction for which the seller makes a purchase using the direct payment permit.

(2) The commission shall within 120 days after the date a seller applies for a direct payment permit notify the seller of the commission's decision to issue or deny the issuance of the direct payment permit.

(3) A direct payment permit may not be used in connection with the following transactions:

(a) a purchase of the following purchased in the same transaction:

(i) prepared food; and

(ii) food and food ingredients;

(b) amounts paid or charged for accommodations and services described in Subsection 59-12-103(1)(i);

(c) amounts paid or charged for admission or user fees under Subsection 59-12-103(1)(f);

(d) a purchase of:

(i) a motor vehicle;

(ii) an aircraft;

(iii) a watercraft;

(iv) a modular home;

(v) a manufactured home; or

(vi) a mobile home;

(e) amounts paid under Subsection 59-12-103(1)(b); or

(f) sales under Subsection 59-12-103(1)(c).

(4) The holder of a direct payment permit shall:

(a) present evidence of the direct payment permit to a seller at the time the holder of the direct payment permit makes a purchase using the direct payment permit;

(b) determine the appropriate location of a transaction under:

(i) (A) Section 59-12-211;

(B) Section 59-12-212; or

(C) Section 59-12-213; and

(ii) for each transaction for which the holder of the direct payment permit makes a purchase using the direct payment permit;

(c) notwithstanding Section 59-12-107, determine the amount of any sales and use tax due on each transaction for which the holder of the direct payment permit uses the direct payment permit;

(d) report and remit to the commission the sales and use tax described in Subsection (4)(c) at the same time and in the same manner as the holder of the direct payment permit reports and remits a tax under this chapter; and

(e) maintain records:

(i) that indicate the appropriate location of a transaction under:

(A) (I) Section 59-12-211;

(II) Section 59-12-212; or

(III) Section 59-12-213; and

(B) for each transaction for which a purchase is made using the direct payment permit; and

(ii) necessary to determine the amount described in Subsection (4)(c) for each transaction for which the holder of the direct payment permit uses the direct payment permit.

(5) A seller that is presented evidence of a direct payment permit at the time of a transaction:

(a) notwithstanding Section 59-12-107, may not collect sales and use tax on the transaction;

(b) shall, for a period of three years from the date the seller files a return with the commission reporting the transaction, retain records to verify that the transaction was made using a direct payment permit; and

(c) notwithstanding Section 59-12-107, is not liable for sales and use tax on the transaction.

(6) The holder of a direct payment permit may calculate the amount the holder of the direct payment permit may retain under Section 59-12-108 on the amount described in Subsection (4)(c):

(a) for each transaction for which the holder of the direct payment permit uses the direct payment permit; and

(b) that the holder of the direct payment permit remits to the commission under this section.

(7) The commission may revoke a direct payment permit issued under this section at any time if the holder of the direct payment permit fails to comply with any provision of this chapter.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to administer this section.

Amended by Chapter 382, 2008 General Session
Amended by Chapter 384, 2008 General Session

59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty -- Certain amounts allocated to local taxing jurisdictions.

(1) (a) Notwithstanding Section 59-12-107, a seller that has a tax liability under this chapter of $50,000 or more for the previous calendar year shall:

(i) file a return with the commission:

(A) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(B) for the month for which the seller collects a tax under this chapter; and

(ii) except as provided in Subsection (1)(b), remit with the return required by Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c):

(A) if that seller's tax liability under this chapter for the previous calendar year is less than $96,000, by any method permitted by the commission; or

(B) if that seller's tax liability under this chapter for the previous calendar year is $96,000 or more, by electronic funds transfer.

(b) A seller shall remit electronically with the return required by Subsection (1)(a)(i) the amount the seller is required to remit to the commission for each tax, fee, or charge described in Subsection (1)(c) if that seller:

(i) is required by Section 59-12-107 to file the return electronically; or

(ii) (A) is required to collect and remit a tax under Section 59-12-107; and

(B) files a simplified electronic return.

(c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

(i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(ii) a fee under Section 19-6-714;

(iii) a fee under Section 19-6-805;

(iv) a charge under Section 69-2-5;

(v) a charge under Section 69-2-5.5;

(vi) a charge under Section 69-2-5.6; or

(vii) a tax under this chapter.

(d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for a method for making same-day payments other than by electronic funds transfer if making payments by electronic funds transfer fails.

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall establish by rule procedures and requirements for determining the amount a seller is required to remit to the commission under this Subsection (1).

(2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1)

or a seller described in Subsection (4) may retain each month the amount allowed by this Subsection (2).

(b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1.31% of any amounts the seller is required to remit to the commission:

(i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax and a local tax imposed in accordance with the following, for the month for which the seller is filing a return in accordance with Subsection (1):

(A) Subsection 59-12-103(2)(a);

(B) Subsection 59-12-103(2)(b); and

(C) Subsection 59-12-103(2)(d); and

(ii) for an agreement sales and use tax.

(c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c).

(ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount equal to the sum of:

(A) 1.31% of any amounts the seller is required to remit to the commission for:

(I) the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c);

(II) the month for which the seller is filing a return in accordance with Subsection (1); and

(III) an agreement sales and use tax; and

(B) 1.31% of the difference between:

(I) the amounts the seller would have been required to remit to the commission:

(Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

(Bb) for the month for which the seller is filing a return in accordance with Subsection (1); and

(Cc) for an agreement sales and use tax; and

(II) the amounts the seller is required to remit to the commission for:

(Aa) the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(c);

(Bb) the month for which the seller is filing a return in accordance with Subsection (1); and

(Cc) an agreement sales and use tax.

(d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain each month 1% of any amounts the seller is required to remit to the commission:

(i) for the month for which the seller is filing a return in accordance with Subsection (1); and

(ii) under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Subsection 59-12-603(1)(a)(i)(A); or

(C) Subsection 59-12-603(1)(a)(i)(B).

(3) A state government entity that is required to remit taxes monthly in accordance with Subsection (1) may not retain any amount under Subsection (2).

(4) A seller that has a tax liability under this chapter for the previous calendar year of less than $50,000 may:

(a) voluntarily meet the requirements of Subsection (1); and

(b) if the seller voluntarily meets the requirements of Subsection (1), retain the amounts allowed by Subsection (2).

(5) (a) Subject to Subsections (5)(b) through (d), a seller that voluntarily collects and remits a tax in accordance with Subsection 59-12-107(2)(c)(i) may retain an amount equal to 18% of any amounts the seller would otherwise remit to the commission:

(i) if the seller obtains a license under Section 59-12-106 for the first time on or after January 1, 2014; and

(ii) for:

(A) an agreement sales and use tax; and

(B) the time period for which the seller files a return in accordance with this section.

(b) If a seller retains an amount under this Subsection (5), the seller may not retain any other amount under this section.

(c) If a seller retains an amount under this Subsection (5), the commission may require the seller to file a return by:

(i) electronic means; or

(ii) a means other than electronic means.

(d) A seller may not retain an amount under this Subsection (5) if the seller is required to collect or remit a tax under this section in accordance with Section 59-12-103.1.

(6) Penalties for late payment shall be as provided in Section 59-1-401.

(7) (a) Except as provided in Subsection (7)(c), for any amounts required to be remitted to the commission under this part, the commission shall each month calculate an amount equal to the difference between:

(i) the total amount retained for that month by all sellers had the percentages listed under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

(ii) the total amount retained for that month by all sellers at the percentages listed under Subsections (2)(b) and (2)(c)(ii).

(b) The commission shall each month allocate the amount calculated under Subsection (7)(a) to each county, city, and town on the basis of the proportion of agreement sales and use tax that the commission distributes to each county, city, and town for that month compared to the total agreement sales and use tax that the commission distributes for that month to all counties, cities, and towns.

(c) The amount the commission calculates under Subsection (7)(a) may not include an amount collected from a tax that:

(i) the state imposes within a county, city, or town, including the unincorporated area of a county; and

(ii) is not imposed within the entire state.

Amended by Chapter 50, 2013 General Session

59-12-109. Confidentiality of information.

The confidentiality of returns and other information filed with the commission shall be governed by Section 59-1-403.

Renumbered and Amended by Chapter 5, 1987 General Session

59-12-110. Refunds procedures.

(1) A seller that files a claim for a refund under Section 59-12-107 for bad debt shall file the claim with the commission within three years from the date on which the seller could first claim the refund for the bad debt.

(2) A seller that files a claim for a refund for a repossessed item shall file the claim with the commission within three years from the date the item is repossessed.

(3) Except as provided in Subsection (1) or (2), procedures and requirements for a taxpayer to obtain a refund from the commission are as provided in Section 59-1-1410.

Amended by Chapter 424, 2012 General Session

59-12-110.1. Refund or credit for taxes overpaid by a purchaser -- Seller reasonable business practice.

(1) Subject to the other provisions of this section, a purchaser may request from a seller a refund or credit of any amount that:

(a) the purchaser overpaid in taxes under this chapter; and

(b) was collected by the seller.

(2) (a) Except as provided in Subsection (2)(b), the procedure described in Subsection (1) is in addition to the process for a taxpayer to file a claim for a refund or credit with the commission under Section 59-1-1410.

(b) Notwithstanding Subsection (2)(a):

(i) the commission is not required to make a refund or credit of an amount for which as of the date the refund or credit is to be given the purchaser has requested or received a refund or credit from the seller; and

(ii) a seller is not required to refund or credit an amount for which as of the date the refund is to be given the purchaser has requested or received a refund or credit from the commission.

(3) A purchaser may not bring a cause of action against a seller for a refund or credit described in Subsection (1):

(a) unless the purchaser provided the seller written notice that:

(i) the purchaser requests the refund or credit described in Subsection (1); and

(ii) contains the information necessary for the seller to determine the validity of the request; and

(b) sooner than 60 days after the day on which the seller receives the written notice described in Subsection (3)(a).

(4) A seller that collects a tax under this chapter that exceeds the amount the seller is required to collect under this chapter is presumed to have a reasonable business practice if the seller:

(a) collects the tax under this chapter that exceeds the amount the seller is required to collect under this chapter through the use of:

(i) a certified service provider; or

(ii) a system certified by the state, including a proprietary system certified by the state; and

(b) remits to the commission all taxes the seller is required to remit to the commission under this chapter.

Amended by Chapter 212, 2009 General Session

59-12-111. Penalty for certain purchasers that fail to file a return or pay a tax due -- Commission rulemaking authority.

A person shall pay a penalty as provided in Section 59-1-401, plus interest at the rate and in the manner prescribed in Section 59-1-402, and all other penalties and interest as provided by this title if the person:

(1) does not hold:

(a) a license under Section 59-12-106; or

(b) a valid use tax registration certificate;

(2) purchases tangible personal property subject to taxation under Subsection 59-12-103(1) for storage, use, or other consumption in this state; and

(3) fails to file a return or pay the tax due as prescribed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 212, 2009 General Session

59-12-112. Tax a lien when selling business -- Liability of purchaser.

The tax imposed by this chapter shall be a lien upon the property of any person who sells out his business or stock of goods or quits business. Such person shall complete the return provided for under Section 59-12-107, within 30 days after the date he sold his business or stock of goods, or quit business. Such person's successor in business shall withhold enough of the purchase money to cover the amount of taxes due and unpaid until the former owner produces a receipt from the commission showing that the taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or stock of goods fails to withhold such purchase money and the taxes are due and unpaid after the 30-day period allowed, he is personally liable for the payment of the taxes collected and unpaid by the former owner.

Renumbered and Amended by Chapter 5, 1987 General Session

59-12-116. License and tax in addition to other licenses and taxes.

The license and tax imposed by this chapter shall be in addition to all other

licenses and taxes provided by law.

Renumbered and Amended by Chapter 5, 1987 General Session

59-12-117. Refusal to make or falsifying returns -- Evasion of payment of a tax -- Aiding or abetting an attempt to evade the payment of a tax -- Penalties -- Criminal violations.

(1) It is unlawful for any seller to:

(a) refuse to make any return required to be made under this chapter;

(b) make any false or fraudulent return or false statement on any return;

(c) evade the payment of a tax, or any part of a tax imposed by this chapter; or

(d) aid or abet another in any attempt to evade the payment of the tax or any part imposed by this chapter.

(2) Any person violating any of the provisions of this chapter, except as provided in Section 59-12-107, is guilty of a criminal violation as provided in Section 59-1-401.

(3) In addition to the penalties described in Subsection (2), any person who knowingly swears to or verifies any false or fraudulent return, or any return containing any false or fraudulent statement is guilty of the offense of perjury and on conviction of perjury shall be punished in the manner provided by law.

(4) Any company making a false return or a return containing a false statement is guilty of a criminal violation as provided in Section 59-1-401.

(5) Any person failing or refusing to furnish any return required to be made, failing or refusing to furnish a supplemental return or other data required by the commission, or rendering a false or fraudulent return is guilty of a criminal violation as provided in Section 59-1-401 for each offense.

(6) Any person required to make, render, sign, or verify any report under this chapter, who makes any false or fraudulent return with intent to defeat or evade the assessment or determination of amount due required by law to be made is guilty of a criminal violation as provided in Section 59-1-401 for each offense.

(7) Any violation of the provisions of this chapter, except as otherwise provided, shall be a criminal violation as provided in Section 59-1-401.

Amended by Chapter 158, 2005 General Session

59-12-118. Commission's authority to administer sales and use tax.

Except as provided in Section 59-12-209, the commission shall have exclusive authority to administer, operate, and enforce the provisions of this chapter including:

(1) determining, assessing, and collecting any sales and use tax imposed pursuant to this chapter;

(2) representing each county, city, and town's interest in any administrative proceeding involving the state or local option sales and use tax;

(3) adjudicating any administrative proceedings involving the state or local option sales and use tax;

(4) waiving, reducing, or compromising any penalty and interest imposed in

connection with any determination of state or local option sales or use tax; and

(5) prescribing forms and rules to conform with this chapter for the making of returns and for the ascertainment, assessment, and collection of the taxes imposed under this chapter.

Amended by Chapter 259, 1994 General Session

59-12-120. Investment incentive to ski resorts for lease or purchase of certain equipment -- Ski Resort Capital Investment Restricted Account created -- Conditions and restrictions on receiving incentive -- State Tax Commission to administer.

(1) Any person operating a ski resort in the state of Utah shall be entitled to an investment incentive in an amount not to exceed the costs incurred in the purchase or lease of:

(a) snow making equipment;

(b) ski slope grooming equipment; and

(c) passenger ropeways as defined in Section 72-11-102.

(2) The investment incentive allowed in Subsection (1) shall be paid from the Ski Resort Capital Investment Restricted Account created in Subsection (5). The investment incentive shall be allowed only to the extent that for each dollar of investment incentive allowed, three dollars shall be expended for the purchase or lease of property described in Subsection (1) by a person operating a ski resort. The investment incentive paid out of the account shall be allocated among ski resorts based on the relation between the total sales tax collected from the sale of ski lift tickets in Utah to the total sales tax collected from the sale of ski lift tickets in Utah by each ski resort.

(3) The investment incentive is available to any person operating a ski resort in the state of Utah making purchases or leases of property described in Subsection (1) on or after January 1, 1989 and on or before December 31, 1992. All claims made under this section against the amount in the Ski Resort Capital Investment Restricted Account shall be made on or before June 30, 1993.

(4) If a ski resort is sold or leased to an unrelated third party within four years after the reporting period in which the investment incentive allowed in Subsection (1) is taken, the person who received the investment incentive shall reimburse to the Ski Resort Capital Investment Restricted Account an amount equal to all investment incentives received during the period described in Subsection (3). For purposes of this Subsection (4), if a ski resort is sold in connection with a bankruptcy proceeding, the sale shall be considered the kind of sale requiring the reimbursement of the investment incentive.

(5) There is created the Ski Resort Capital Investment Incentive Restricted Account within the General Fund.

(6) The State Tax Commission shall administer this section by rule.

Amended by Chapter 303, 2011 General Session

59-12-123. Definitions -- Collection, remittance, and payment of a tax on direct mail.

(1) As used in this section:

(a) "Advertising and promotional direct mail" means printed material:

(i) that meets the definition of direct mail under Section 59-12-102; and

(ii) if the primary purpose of the printed material is to:

(A) attract public attention to a business, organization, person, or product; or

(B) attempt to popularize, secure, or sell financial support for a business, organization, person, or product.

(b) For purposes of Subsection (1)(a), "product" means:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(2) Notwithstanding Section 59-12-107 and except as provided in Subsection (7), a purchaser of advertising and promotional direct mail may provide to a seller at the time of a transaction:

(a) a form:

(i) prescribed by the commission; and

(ii) indicating that the transaction is a direct mail transaction;

(b) an agreement certificate of exemption indicating that the transaction is a direct mail transaction;

(c) a direct payment permit under Section 59-12-107.1; or

(d) information that indicates the locations of the recipients to which the advertising and promotional direct mail is delivered.

(3) If a seller receives a form, certificate, or permit described in Subsection (2)(a), (b), or (c) from a purchaser:

(a) if the seller acts in the absence of bad faith, the seller:

(i) is not liable to collect or remit agreement sales and use tax for that transaction; and

(ii) shall keep a record of the form, certificate, or permit described in Subsection (2)(a), (b), or (c) for three years after the date the seller files a return with the commission reporting that transaction; and

(b) the purchaser that provides the form, certificate, or permit described in Subsection (2)(a), (b), or (c) shall:

(i) determine the amount of agreement sales and use tax due on the transaction in the location where the advertising and promotional direct mail is delivered; and

(ii) report and remit to the commission the amount described in Subsection (3)(b)(i) in accordance with Section 59-12-107.

(4) A form or certificate described in Subsection (2)(a) or (b) is in effect for all transactions between the seller described in Subsection (3) and the purchaser described in Subsection (3):

(a) beginning on the date the seller receives the form or certificate in accordance with Subsection (2)(a) or (b); and

(b) ending on the date the purchaser revokes the form or certificate in writing.

(5) (a) If a seller receives the information described in Subsection (2)(d) from a

purchaser that indicates the locations of the recipients to which the advertising and promotional direct mail is delivered, the seller shall collect and remit agreement sales and use tax to the commission in accordance with the information the purchaser provides.

(b) If a seller collects and remits agreement sales and use tax to the commission in accordance with Subsection (5)(a), the seller is not liable for any further obligation to collect or remit agreement sales and use tax to the commission on the transaction unless the seller acts in bad faith.

(6) If a purchaser of advertising and promotional direct mail described in Subsection (2) does not provide the seller with the form, certificate, permit, or information described in Subsection (2) at the time of the transaction, the seller shall:

(a) determine the amount of agreement sales and use tax due on the transaction in accordance with Subsection 59-12-211(6); and

(b) collect and remit to the commission the amount described in Subsection (6)(a) in accordance with Section 59-12-107.

(7) (a) Except as provided in Subsection (7)(b), this Subsection (7) applies to direct mail if the direct mail is delivered or distributed:

(i) from a location within the state; and

(ii) to a location within the state.

(b) A purchaser of direct mail may provide a seller with:

(i) a form:

(A) prescribed by the commission; and

(B) indicating that the transaction is a direct mail transaction;

(ii) an agreement certificate of exemption indicating that the transaction is a direct mail transaction; or

(iii) a direct payment permit under Section 59-12-107.1.

(c) If a seller receives a form, certificate, or permit described in Subsection (7)(b) from a purchaser:

(i) if the seller acts in the absence of bad faith, the seller:

(A) is not liable to collect or remit agreement sales and use tax for that transaction; and

(B) shall keep a record of the form, certificate, or permit described in Subsection (7)(b) for three years after the date the seller files a return with the commission reporting the transaction; and

(ii) the purchaser that provides the form, certificate, or permit described in Subsection (7)(b) shall:

(A) determine the amount of agreement sales and use tax due on the transaction in accordance with Section 59-12-211.1; and

(B) report and remit to the commission the amount described in Subsection (7)(c)(ii)(A) in accordance with Section 59-12-107.

(d) Except as provided in Subsection (7)(f), if a purchaser of direct mail described in Subsection (7)(b) does not provide the seller with the form, certificate, or permit described in Subsection (7)(b) at the time of the transaction, the seller shall:

(i) determine the amount of agreement sales and use tax due on the transaction in accordance with Subsection 59-12-211(6);

(ii) collect and remit to the commission the amount described in Subsection (7)(d)(i) in accordance with Section 59-12-107; and

(iii) is not liable for any additional sales and use tax under this chapter.

(e) If a seller knows that direct mail will be delivered or distributed to a location in another state, the seller shall:

(i) determine the amount of agreement sales and use tax due on the transaction in accordance with Subsection (5); and

(ii) collect and remit to the commission the amount described in Subsection (7)(e)(i) in accordance with Section 59-12-107.

(f) A seller may:

(i) elect to determine the amount of agreement sales and use tax due on the sale of advertising and promotional direct mail in accordance with Subsection (5) or (6); and

(ii) collect and remit to the commission the amount described in Subsection (7)(f)(i) in accordance with Section 59-12-107.

(8) A form, certificate, or permit described in Subsection (7)(b) is in effect for all transactions between a seller and a purchaser:

(a) beginning on the date the seller receives the form, certificate, or permit in accordance with Subsection (7)(b); and

(b) ending on the date the purchaser revokes the form, certificate, or permit in writing.

(9) This section applies to:

(a) a transaction that is a sale of a service only if the service is an integral part of the production and distribution of direct mail; or

(b) a bundled transaction that includes advertising and promotional direct mail only if the primary purpose of the transaction is the sale of tangible personal property, a product transferred electronically, or a service that is advertising and promotional direct mail.

(10) This section does not apply to a transaction that includes:

(a) the development of billing information; or

(b) the provision of any data processing service that is more than incidental regardless of whether advertising and promotional direct mail is included in the same mailing.

Amended by Chapter 142, 2010 General Session

59-12-124. Certified service provider liability.

(1) Notwithstanding Section 59-12-107 and except as provided in Subsection (2), if a model 1 seller selects a certified service provider as the model 1 seller's agent:

(a) the certified service provider shall collect and remit an agreement sales and use tax to the commission:

(i) that the model 1 seller would otherwise be required to remit to the commission under this chapter; and

(ii) as provided in this chapter; and

(b) the model 1 seller is not liable for the certified service provider's failure to

collect and remit an agreement sales and use tax to the commission that the model 1 seller would otherwise be required to remit to the commission under this chapter.

(2) The model 1 seller described in Subsection (1):

(a) shall remit to the commission a sales and use tax imposed by this chapter:

(i) on the model 1 seller's purchases; and

(ii) as provided in this chapter; and

(b) is liable for a sales and use tax liability arising from fraud by the model 1 seller.

Enacted by Chapter 384, 2008 General Session

59-12-125. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-126. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under

this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

59-12-127. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or
(C) on a taxing jurisdiction; or
(ii) an erroneous classification by the commission:
(A) in the taxability matrix the commission provides in accordance with the agreement; and
(B) with respect to a term:
(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition; or
(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
(i) incorrect data provided by the commission:
(A) on a tax rate;
(B) on a boundary; or
(C) on a taxing jurisdiction; or
(ii) an erroneous classification by the commission:
(A) in the taxability matrix the commission provides in accordance with the agreement; and
(B) with respect to a term:
(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

59-12-128. Amnesty.

(1) As used in this section, "amnesty" means that a seller is not required to pay the following amounts that the seller would otherwise be required to pay:
(a) a tax, fee, or charge under:
(i) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
(ii) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
(iii) Section 19-6-714;
(iv) Section 19-6-805;
(v) Chapter 26, Multi-Channel Video or Audio Service Tax Act;
(vi) Section 69-2-5;
(vii) Section 69-2-5.5;
(viii) Section 69-2-5.6; or
(ix) this chapter;
(b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or
(c) interest on a tax, fee, or charge described in Subsection (1)(a).
(2) (a) Except as provided in Subsections (2)(b) and (3) and subject to

Subsections (4) and (5), the commission shall grant a seller amnesty if the seller:

(i) obtains a license under Section 59-12-106; and

(ii) is registered under the agreement.

(b) The commission is not required to grant a seller amnesty under this section beginning 12 months after the date the state becomes a full member under the agreement.

(3) A seller may not receive amnesty under this section for a tax, fee, or charge:

(a) the seller collects;

(b) the seller remits to the commission;

(c) that the seller is required to remit to the commission on the seller's purchase; or

(d) arising from a transaction that occurs within a time period that is under audit by the commission if:

(i) the seller receives notice of the commencement of the audit prior to obtaining a license under Section 59-12-106; and

(ii) (A) the audit described in Subsection (3)(d)(i) is not complete; or

(B) the seller has not exhausted all administrative and judicial remedies in connection with the audit described in Subsection (3)(d)(i).

(4) (a) Except as provided in Subsection (4)(b), amnesty the commission grants to a seller under this section:

(i) applies to the time period during which the seller is not licensed under Section 59-12-106; and

(ii) remains in effect if, for a period of three years, the seller:

(A) remains registered under the agreement;

(B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge described in Subsection (1)(a); and

(C) remits to the commission the taxes, fees, and charges the seller collects in accordance with Subsection (4)(a)(ii)(B).

(b) The commission may not grant a seller amnesty under this section if, with respect to a tax, fee, or charge for which the seller would otherwise be granted amnesty under this section, the seller commits:

(i) fraud; or

(ii) an intentional misrepresentation of a material fact.

(5) (a) If a seller does not meet a requirement of Subsection (4)(a)(ii), the commission shall require the seller to pay the amounts described in Subsection (1) that the seller would have otherwise been required to pay.

(b) Notwithstanding Section 59-1-1410, for purposes of requiring a seller to pay an amount in accordance with Subsection (5)(a), the time period for the commission to make an assessment under Section 59-1-1410 is extended for a time period beginning on the date the seller does not meet a requirement of Subsection (4)(a)(ii) and ends three years after that date.

Amended by Chapter 285, 2011 General Session
Amended by Chapter 309, 2011 General Session

59-12-129. Monetary allowance under the agreement.

The commission shall provide a monetary allowance to a seller or certified service provider as determined:

(1) by the governing board of the agreement; and

(2) in accordance with the agreement.

Enacted by Chapter 384, 2008 General Session

59-12-201. Title.

This part is known as the "Local Sales and Use Tax Act."

Amended by Chapter 21, 1999 General Session

59-12-202. Purpose and intent.

(1) It is the purpose of this part to provide the counties, cities, and towns of the state with an added source of revenue and to thereby assist them to meet their growing financial needs. It is the legislative intent that this added revenue be used to the greatest possible extent by the counties, cities, and towns to finance their capital outlay requirements and to service their bonded indebtedness.

(2) It is the purpose of this part to provide an orderly and efficient system of administering, operating, and enforcing the state and local option sales and use tax. The Legislature finds that intervention by counties, cities, and towns into the administration, operation, and enforcement of the local sales and use tax, particularly in the hearing and appeal process, increases the cost of administering both the local option sales and use tax and the state sales and use tax proceedings, and substantially delays the receipt of revenues for counties, cities, towns, and the state. The Legislature finds that the interests and concerns of counties, cities, and towns can be adequately protected through the commission's enforcement efforts. It is therefore the Legislature's intent to grant the commission exclusive authority to administer, operate, and enforce the local option sales and use tax, without interference from counties, cities, and towns and to allow intervention by any county, city, or town only in the limited circumstances where a particular hearing or appeal may result in a significant lessening of the revenues of any single county, city, or town.

Amended by Chapter 259, 1994 General Session

59-12-203. County, city, or town may levy tax -- Contracts pursuant to Interlocal Cooperation Act.

Any county, city, or town may levy a sales and use tax under this part. Any county, city, or town which elects to levy such sales and use tax may enter into agreements authorized by Title 11, Chapter 13, the Interlocal Cooperation Act, and may use any or all of the revenues derived from the imposition of such tax for the mutual benefit of local governments which elect to contract with one another pursuant to the Interlocal Cooperation Act.

Renumbered and Amended by Chapter 5, 1987 General Session

59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of tax revenues -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund.

(1) The tax ordinance adopted pursuant to this part shall impose a tax upon those transactions listed in Subsection 59-12-103(1).

(2) (a) The tax ordinance under Subsection (1) shall include a provision imposing a tax upon every transaction listed in Subsection 59-12-103(1) made within a county, including areas contained within the cities and towns located in the county:

(i) at the rate of 1% of the purchase price paid or charged; and

(ii) if the location of the transaction is within the county as determined under Sections 59-12-211 through 59-12-215.

(b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall include a provision prohibiting a county, city, or town from imposing a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(3) Such tax ordinance shall include provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the name of the county as the taxing agency shall be substituted for that of the state where necessary for the purpose of this part and that an additional license is not required if one has been or is issued under Section 59-12-106.

(4) Such tax ordinance shall include a provision that the county shall contract, prior to the effective date of the ordinance, with the commission to perform all functions incident to the administration or operation of the ordinance.

(5) Such tax ordinance shall include a provision that the sale, storage, use, or other consumption of tangible personal property, the purchase price or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county, city, or town in any other county in this state, shall be exempt from the tax due under this ordinance.

(6) Such tax ordinance shall include a provision that any person subject to the provisions of a city or town sales and use tax shall be exempt from the county sales and use tax if the city or town sales and use tax is levied under an ordinance including provisions in substance as follows:

(a) a provision imposing a tax upon every transaction listed in Subsection 59-12-103(1) made within the city or town at the rate imposed by the county in which it is situated pursuant to Subsection (2);

(b) notwithstanding Subsection (2)(a), a provision prohibiting the city or town from imposing a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(c) provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales and use taxes, except that the name of the city or town as the taxing agency shall be substituted for that of the state where necessary for the purposes of this part;

(d) a provision that the city or town shall contract prior to the effective date of the city or town sales and use tax ordinance with the commission to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city or town;

(e) a provision that the sale, storage, use, or other consumption of tangible personal property, the gross receipts from the sale of or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county other than the county in which the city or town is located, or city or town in this state, shall be exempt from the tax; and

(f) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not be included as a part of the purchase price paid or charged for a taxable item.

(7) (a) Notwithstanding any other provision of this section, beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (7).

(b) For a city, town, or unincorporated area of a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that city, town, or unincorporated area of a county by the total sales and use tax collected under this part for that month within the boundaries of all of the cities, towns, and unincorporated areas of the counties that impose a tax under this part.

(c) For a city, town, or unincorporated area of a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (7)(b) for the city, town, or unincorporated area of a county; and

(ii) $25,417.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection (7) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

Amended by Chapter 258, 2014 General Session

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenues -- Determination of population.

(1) A county, city, or town, in order to maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of an amendment to an applicable provision of Part 1, Tax Collection, adopt amendments to the county's, city's, or town's sales and use tax ordinances as required to conform to the amendments to Part 1, Tax Collection.

(2) Except as provided in Subsections (3) through (5) and subject to Subsection (6):

(a) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all

counties, cities, and towns in the state; and

(b) (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215; and

(ii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201.

(3) (a) Beginning on July 1, 2011, and ending on June 30, 2016, the commission shall each year distribute to a county, city, or town the distribution required by this Subsection (3) if:

(i) the county, city, or town is a:

(A) county of the third, fourth, fifth, or sixth class;

(B) city of the fifth class; or

(C) town;

(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;

(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.

(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):

(i) from the distribution required by Subsection (2)(a); and

(ii) before making any other distribution required by this section.

(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by $333,583.

(ii) For purposes of Subsection (3)(c)(i):

(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and

(B) the denominator of the fraction is $333,583.

(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.

(4) (a) For fiscal years beginning with fiscal year 1983-84 and ending with fiscal year 2005-06, a county, city, or town may not receive a tax revenue distribution less than .75% of the taxable sales within the boundaries of the county, city, or town.

(b) The commission shall proportionally reduce monthly distributions to any county, city, or town that, but for the reduction, would receive a distribution in excess of 1% of the sales and use tax revenue collected within the boundaries of the county, city, or town.

(5) (a) As used in this Subsection (5):

(i) "Eligible county, city, or town" means a county, city, or town that receives $2,000 or more in tax revenue distributions in accordance with Subsection (4) for each of the following fiscal years:

(A) fiscal year 2002-03;

(B) fiscal year 2003-04; and

(C) fiscal year 2004-05.

(ii) "Minimum tax revenue distribution" means the greater of:

(A) the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2000-01; or

(B) the total amount of tax revenue distributions an eligible county, city, or town receives from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) (i) Except as provided in Subsection (5)(b)(ii), beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, an eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(A) the payment required by Subsection (2); or

(B) the minimum tax revenue distribution.

(ii) If the tax revenue distribution required by Subsection (5)(b)(i) for an eligible county, city, or town is equal to the amount described in Subsection (5)(b)(i)(A) for three consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax revenue distribution equal to the payment required by Subsection (2).

(c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that eligible county, city, or town is less than or equal to the product of:

(i) the minimum tax revenue distribution; and

(ii) .90.

(6) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Census Bureau.

(b) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from the estimate from the Utah Population Estimates Committee created by executive order of the governor.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Amended by Chapter 9, 2012 General Session

59-12-206. Collection of taxes by commission -- Administrative charge.

(1) The commission shall transmit the sales and use tax revenues the commission collects in accordance with a contract with any county, city, or town monthly by electronic funds transfer.

(2) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenues the commission collects from a tax under this part.

Amended by Chapter 309, 2011 General Session

59-12-208.1. Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) For purposes of this section:

(a) "Annexation" means an annexation to:

(i) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

(ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a county, city, or town.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the county, city, or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the county, city, or town will enact or repeal a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) The enactment of a tax takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Section 59-12-204.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under Section 59-12-204.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (2)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment or repeal of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) the rate of the tax described in Subsection (3)(b)(i).

(c) (i) The enactment of a tax takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Section 59-12-204.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under Section 59-12-204.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (3)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Amended by Chapter 254, 2012 General Session

59-12-209. Participation of counties, cities, and towns in administration and enforcement of certain local sales and use taxes -- Petition for reconsideration relating to the redistribution of certain sales and use tax revenues.

(1) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a county, city, or town does not have the right to any of the following, except as specifically allowed by Subsection (2) and Section 59-12-210:

(a) to inspect, review, or have access to any taxpayer sales and use tax records; or

(b) to be informed of, participate in, intervene in, or appeal from any adjudicative proceeding commenced pursuant to Section 63G-4-201 to determine the liability of any taxpayer for sales and use taxes imposed pursuant to this chapter.

(2) (a) Counties, cities, and towns shall have access to records and information on file with the commission, and shall have the right to notice of, and rights to intervene in or to appeal from, a proposed final agency action of the commission as provided in this Subsection (2).

(b) If the commission, following a formal adjudicative proceeding commenced pursuant to Title 63G, Chapter 4, Administrative Procedures Act, proposes to take final agency action that would reduce the amount of sales and use tax liability alleged in the notice of deficiency, the commission shall provide notice of a proposed agency action to each qualified county, city, and town.

(c) For purposes of this Subsection (2), a county, city, or town is a qualified county, city, or town if a proposed final agency action reduces a tax under this chapter distributable to that county, city, or town by more than $10,000 below the amount of the tax that would have been distributable to that county, city, or town had a notice of deficiency, as described in Section 59-1-1405, not been reduced.

(d) A qualified county, city, or town may designate a representative who shall have the right to review the record of the formal hearing and any other commission records relating to a proposed final agency action subject to the confidentiality provisions of Section 59-1-403.

(e) No later than 10 days after receiving the notice of the commission's proposed final agency action, a qualified county, city, or town may file a notice of intervention with the commission.

(f) No later than 20 days after filing a notice of intervention, if a qualified county, city, or town objects to the proposed final agency action, that qualified county, city, or town may file a petition for reconsideration with the commission and shall serve copies of the petition on the taxpayer and the appropriate division in the commission.

(g) The taxpayer and appropriate division in the commission may each file a response to the petition for reconsideration within 20 days of receipt of the petition for reconsideration.

(h) (i) After consideration of the petition for reconsideration and any response, and any additional proceeding the commission considers appropriate, the commission may affirm, modify, or amend its proposed final agency action.

(ii) A taxpayer and any qualified county, city, or town that has filed a petition for reconsideration may appeal the final agency action.

(i) (i) Notwithstanding Subsections (2)(a) through (h) and subject to Subsection (2)(i)(ii), the following may file a petition for reconsideration with the commission:

(A) an original recipient political subdivision as defined in Section 59-12-210.1 that receives a notice from the commission in accordance with Subsection 59-12-210.1(2); or

(B) a secondary recipient political subdivision as defined in Section 59-12-210.1 that receives a notice from the commission in accordance with Subsection 59-12-210.1(2).

(ii) An original recipient political subdivision or secondary recipient political subdivision that files a petition for reconsideration with the commission under Subsection (2)(i)(i) shall file the petition no later than 20 days after the later of:

(A) the date the original recipient political subdivision or secondary recipient political subdivision receives the notice described in Subsection (2)(i)(i) from the commission; or

(B) the date the commission makes the redistribution as defined in Section 59-12-210.1 that is the subject of the notice described in Subsection (2)(i)(i).

Amended by Chapter 212, 2009 General Session
Amended by Chapter 240, 2009 General Session

59-12-210. Commission to provide data to counties.

(1) (a) The commission shall provide to each county the sales and use tax collection data necessary to verify that sales and use tax revenues collected by the commission are distributed to each county, city, and town in accordance with Sections 59-12-211 through 59-12-215.

(b) The data described in Subsection (1)(a) shall include the commission's reports of seller sales, sales and use tax distribution reports, and a breakdown of local revenues.

(2) (a) In addition to the access to information provided in Subsection (1) and Section 59-12-109, the commission shall provide a county, city, or town with copies of returns and other information required by this chapter relating to a tax under this chapter.

(b) The information described in Subsection (2)(a) is available only in official matters and must be requested in writing by the chief executive officer or the chief executive officer's designee.

(c) The request described in Subsection (2)(b) shall specifically indicate the information being sought and how the information will be used.

(d) Information received pursuant to the request described in Subsection (2)(b) shall be:

(i) classified as private or protected under Section 63G-2-302 or 63G-2-305;

and

(ii) subject to the confidentiality provisions of Section 59-1-403.

Amended by Chapter 240, 2009 General Session

59-12-210.1. Commission redistribution of certain sales and use tax revenues.

(1) As used in this section:

(a) "Eligible portion of qualifying sales and use tax revenues" means the portion of qualifying sales and use tax revenues that:

(i) were part of an original distribution; and

(ii) the commission determines should have been transmitted:

(A) to a secondary recipient political subdivision; and

(B) during the redistribution period.

(b) "Original distribution" means that the commission:

(i) collects an amount of qualifying sales and use tax revenues; and

(ii) transmits the amount of qualifying sales and use tax revenues to an original recipient political subdivision.

(c) "Original recipient political subdivision" means a county, city, or town to which the commission makes an original distribution.

(d) "Qualifying sales and use tax revenues" means revenues the commission collects from a tax under this chapter except for a tax imposed under:

(i) Part 1, Tax Collection;

(ii) Part 3, Transient Room Tax, if a county, city, or town:

(A) collects the tax; and

(B) does not contract with the commission to collect the tax;

(iii) Part 12, Motor Vehicle Rental Tax; or

(iv) Part 18, Additional State Sales and Use Tax Act.

(e) "Redistribution" means that the commission:

(i) makes an original distribution of qualifying sales and use tax revenues to an original recipient political subdivision;

(ii) after the commission makes the original distribution of qualifying sales and use tax revenues to the original recipient political subdivision, determines that an eligible portion of qualifying sales and use tax revenues should have been transmitted to a secondary recipient political subdivision as a result of:

(A) a county, city, or town providing written notice to the commission that qualifying sales and use tax revenues that the commission distributed to an original recipient political subdivision should have been transmitted to a secondary recipient political subdivision; or

(B) the commission finding that an extraordinary circumstance, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, exists that requires the commission to make a redistribution without receiving the notice described in Subsection (1)(e)(ii)(A); and

(iii) in accordance with this section, transmits to the secondary recipient political subdivision the eligible portion of qualifying sales and use tax revenues for the

redistribution period.

(f) "Redistribution determination date" means the date the commission determines that a secondary recipient political subdivision should have received a redistribution, regardless of the date the commission actually transmits the redistribution to the secondary recipient political subdivision.

(g) "Redistribution period" means the time period:

(i) if the commission determines that an eligible portion of qualifying sales and use tax revenues should have been transmitted to a secondary recipient political subdivision beginning on a date that is 90 or more days before the redistribution determination date:

(A) beginning 90 days before the redistribution determination date; and

(B) ending on the redistribution determination date; or

(ii) if the commission determines that an eligible portion of qualifying sales and use tax revenues should have been transmitted to a secondary recipient political subdivision beginning on a date that is less than 90 days before the redistribution determination date:

(A) beginning on the date the eligible portion of qualifying sales and use tax revenues should have been transmitted to the secondary recipient political subdivision; and

(B) ending on the redistribution determination date.

(h) "Secondary recipient political subdivision" means a county, city, or town that the commission determines should receive a redistribution.

(2) Subject to Subsection (3), the commission may make a redistribution to a secondary recipient political subdivision in an amount equal to the eligible portion of qualifying sales and use tax revenues if:

(a) the commission provides written notice to the following within 15 days after the commission determines to make the redistribution:

(i) the original recipient political subdivision; and

(ii) the secondary recipient political subdivision; and

(b) the commission obtains:

(i) an amended return from each seller that reports a transaction that will be subject to the redistribution; or

(ii) if the commission determines that an amended return described in Subsection (2)(b)(i) is not required to make the redistribution, information:

(A) supporting the redistribution; and

(B) supplied by:

(I) a seller;

(II) a county, city, or town; or

(III) the commission.

(3) The commission shall make a redistribution within 60 days after the requirements of Subsection (2) are met.

(4) This section does not limit the commission's authority to make a distribution of revenues under this chapter for a time period other than the redistribution period.

Enacted by Chapter 240, 2009 General Session

59-12-211. Definitions -- Location of certain transactions -- Reports to commission -- Direct payment provision for a seller making certain purchases -- Exceptions.

(1) As used in this section:

(a) (i) "Receipt" and "receive" mean:

(A) taking possession of tangible personal property;

(B) making first use of a service; or

(C) for a product transferred electronically, the earlier of:

(I) taking possession of the product transferred electronically; or

(II) making first use of the product transferred electronically.

(ii) "Receipt" and "receive" do not include possession by a shipping company on behalf of a purchaser.

(b) "Transportation equipment" means:

(i) a locomotive or rail car that is used to carry a person or property in interstate commerce;

(ii) a truck or truck-tractor:

(A) with a gross vehicle weight rating of 10,001 pounds or more;

(B) registered under Section 41-1a-301; and

(C) operated under the authority of a carrier authorized and certificated:

(I) by the United States Department of Transportation or another federal authority; and

(II) to engage in carrying a person or property in interstate commerce;

(iii) a trailer, semitrailer, or passenger bus that is:

(A) registered under Section 41-1a-301; and

(B) operated under the authority of a carrier authorized and certificated:

(I) by the United States Department of Transportation or another federal authority; and

(II) to engage in carrying a person or property in interstate commerce;

(iv) an aircraft that is operated by an air carrier authorized and certificated:

(A) by the United States Department of Transportation or another federal or foreign authority; and

(B) to engage in carrying a person or property in interstate commerce; or

(v) a container designed for use on, or a component part attached or secured on, an item of equipment listed in Subsections (1)(b)(i) through (iv).

(2) Except as provided in Subsections (8) and (14), if tangible personal property, a product transferred electronically, or a service that is subject to taxation under this chapter is received by a purchaser at a business location of a seller, the location of the transaction is the business location of the seller.

(3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if tangible personal property, a product transferred electronically, or a service that is subject to taxation under this chapter is not received by a purchaser at a business location of a seller, the location of the transaction is the location where the purchaser takes receipt of the tangible personal property or service.

(4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if Subsection (2) or (3) does not apply, the location of the

transaction is the location indicated by an address for or other information on the purchaser if:

(a) the address or other information is available from the seller's business records; and

(b) use of the address or other information from the seller's records does not constitute bad faith.

(5) (a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the location indicated by an address for the purchaser if:

(i) the address is obtained during the consummation of the transaction; and

(ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.

(b) An address used under Subsection (5)(a) includes the address of a purchaser's payment instrument if no other address is available.

(6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the location:

(a) indicated by the address from which:

(i) except as provided in Subsection (6)(a)(ii), for tangible personal property that is subject to taxation under this chapter, the tangible personal property is shipped;

(ii) for computer software delivered electronically or for a product transferred electronically that is subject to taxation under this chapter, the computer software or product transferred electronically is first available for transmission by the seller; or

(iii) for a service that is subject to taxation under this chapter, the service is provided; or

(b) as determined by the seller with respect to a prepaid wireless calling service:

(i) provided in Subsection (6)(a)(iii); or

(ii) associated with the mobile telephone number.

(7) (a) For purposes of this Subsection (7), "shared ZIP Code" means a nine-digit ZIP Code that is located within two or more local taxing jurisdictions.

(b) If the location of a transaction determined under Subsections (3) through (6) is in a shared ZIP Code, the location of the transaction is:

(i) if there is only one local taxing jurisdiction that imposes the lowest agreement combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest agreement combined tax rate; or

(ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax rate for the shared ZIP Code, the local taxing jurisdiction that:

(A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and

(B) has located within the local taxing jurisdiction the largest number of street addresses within the shared ZIP Code.

(c) Notwithstanding any provision under this chapter authorizing or requiring the imposition of a sales and use tax, for purposes of Subsection (7)(b), a seller shall

collect a sales and use tax imposed under this chapter at the lowest agreement combined tax rate imposed within the local taxing jurisdiction in which the transaction is located under Subsection (7)(b).

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) providing for the circumstances under which a seller has exercised due diligence in determining the nine-digit ZIP Code for an address; or

(ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction within which a transaction is located if a seller is unable to determine the local taxing jurisdiction within which the transaction is located under Subsection (7)(b).

(8) The location of a transaction made with a direct payment permit described in Section 59-12-107.1 is the location where receipt of the tangible personal property, product, or service by the purchaser occurs.

(9) The location of a purchase of direct mail is the location determined in accordance with Section 59-12-123.

(10) (a) Except as provided in Subsection (10)(b), the location of a transaction determined under Subsections (3) through (6), (8), or (9), is the local taxing jurisdiction within which:

(i) the nine-digit ZIP Code assigned to the location determined under Subsections (3) through (6), (8), or (9) is located; or

(ii) the five-digit ZIP Code assigned to the location determined under Subsections (3) through (6), (8), or (9) is located if:

(A) a nine-digit ZIP Code is not available for the location determined under Subsections (3) through (6), (8), or (9); or

(B) after exercising due diligence, a seller or certified service provider is unable to determine a nine-digit ZIP Code for the location determined under Subsections (3) through (6), (8), or (9).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the local taxing jurisdiction within which a transaction is located if a seller or certified service provider is unable to determine the local taxing jurisdiction within which the transaction is located under Subsection (10)(a).

(11) (a) As used in this Subsection (11), "florist delivery transaction" means a transaction commenced by a florist that transmits an order:

(i) by:

(A) telegraph;

(B) telephone; or

(C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

(ii) for delivery to another place:

(A) in this state; or

(B) outside this state.

(b) Notwithstanding Subsections (3) through (6), beginning on January 1, 2009, and ending on December 31, 2009, the location of a florist delivery transaction is the business location of the florist that commences the florist delivery transaction.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

Act, the commission may by rule:

(i) define:

(A) "business location"; and

(B) "florist";

(ii) define what constitutes a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

(iii) provide procedures for determining when a transaction is commenced.

(12) (a) Notwithstanding any other provision of this section and except as provided in Subsection (12)(b), if a purchaser uses computer software and there is not a transfer of a copy of that software to the purchaser, the location of the transaction is determined in accordance with Subsections (4) and (5).

(b) If a purchaser uses computer software described in Subsection (12)(a) at more than one location, the location of the transaction shall be determined in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) (a) A tax collected under this chapter shall be reported to the commission on a form that identifies the location of each transaction that occurs during the return filing period.

(b) The form described in Subsection (13)(a) shall be filed with the commission as required under this chapter.

(14) This section does not apply to:

(a) amounts charged by a seller for:

(i) telecommunications service except for a prepaid calling service or a prepaid wireless calling service as provided in Subsection (6)(b) or Section 59-12-215; or

(ii) the retail sale or transfer of:

(A) a motor vehicle other than a motor vehicle that is transportation equipment;

(B) an aircraft other than an aircraft that is transportation equipment;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home; or

(iii) except as provided in Section 59-12-214, the lease or rental of tangible personal property other than tangible personal property that is transportation equipment;

(b) a tax a person pays in accordance with Subsection 59-12-107(2)(e); or

(c) a retail sale of tangible personal property or a product transferred electronically if:

(i) the seller receives the order for the tangible personal property or product transferred electronically in this state;

(ii) receipt of the tangible personal property or product transferred electronically by the purchaser or the purchaser's donee occurs in this state;

(iii) the location where receipt of the tangible personal property or product transferred electronically by the purchaser occurs is determined in accordance with Subsections (3) through (5); and

(iv) at the time the seller receives the order, the record keeping system that the

seller uses to calculate the proper amount of tax imposed under this chapter captures the location where the order is received.

Amended by Chapter 312, 2012 General Session

59-12-211.1. Location of a transaction that is subject to a use tax.

(1) Subject to Subsection (2), a person that is required by Subsection 59-12-107(2)(e) to pay a use tax on a transaction shall report the location of that transaction at the person's location.

(2) For purposes of Subsection (1), if a person has more than one location in this state, the person shall report the location of the transaction at the location at which tangible personal property, a product transferred electronically, or a service is received.

Amended by Chapter 312, 2012 General Session

59-12-212. Location of certain transactions if receipt of order and receipt of tangible personal property or product take place in this state -- Location of sale, lease, or rental of a service -- Exception from tax, penalty, or interest.

(1) The location of the sale of tangible personal property or a product transferred electronically is the location where the seller receives the order if:

(a) the seller receives the order for the tangible personal property or product transferred electronically in this state;

(b) receipt of the tangible personal property or product transferred electronically by the purchaser or the purchaser's donee occurs in this state;

(c) the location where receipt of the tangible personal property or product transferred electronically by the purchaser occurs is determined in accordance with Subsections (3) through (6); and

(d) at the time the seller receives the order, the record keeping system that the seller uses to calculate the proper amount of tax imposed under this chapter captures the location where the order is received.

(2) (a) Subject to Subsections (2)(b) through (d), for purposes of this section, the location where a seller receives an order is:

(i) a physical location of the seller or a third party; and

(ii) where an order is initially received by or on behalf of the seller.

(b) A physical location of a seller or third party includes the following if operated by or on behalf of the seller:

(i) an automated order receipt system;

(ii) an office; or

(iii) an outlet.

(c) The location where a seller receives an order does not include the location:

(i) where an order is accepted, completed, or fulfilled; or

(ii) from which tangible personal property or a product transferred electronically is shipped.

(d) For purposes of this Subsection (2), an order is considered to be received when all of the information necessary to the determination of whether the order can be

accepted has been received by or on behalf of the seller.

(3) (a) A purchaser is not liable for a tax, penalty, or interest on a sale for which the purchaser remits a tax under this chapter to the seller in the amount the seller invoices if the amount is calculated at the total tax rate applicable to the location where:

(i) receipt by the purchaser occurs; or

(ii) the seller receives the order.

(b) A purchaser may rely on a written representation by the seller as to the location where the seller receives the order for the sale.

(c) If a purchaser does not have a written representation by the seller as to the location where the seller receives the order for the sale, the purchaser may determine the total tax rate applicable to the location where the order is received by using a location indicated by a business address for the seller that is available from the business records:

(i) of the purchaser; and

(ii) that are maintained in the ordinary course of the purchaser's business.

(4) If an item of tangible personal property or an item that is a product transferred electronically is sold with an item that is subject to Section 59-12-211, all of the items are subject to this section if the items are:

(a) sold under a single contract;

(b) sold in the same transaction; and

(c) billed on the same billing statement.

(5) Notwithstanding Section 59-12-211, a seller may elect to determine the location of a sale, lease, or rental of a service under this section if the seller makes any sale, lease, or rental that is subject to this section.

(6) Except as provided in Subsection (5), this section does not apply to the lease or rental of:

(a) tangible personal property; or

(b) a product transferred electronically.

Amended by Chapter 27, 2009 General Session

59-12-213. Location of a transaction involving a sale of aircraft, a manufactured home, a mobile home, a modular home, a motor vehicle, or watercraft.

(1) (a) Except as provided in Subsection (1)(b) or (4), the location of a sale of the following tangible personal property is determined as provided in this section:

(i) aircraft;

(ii) a manufactured home;

(iii) a mobile home;

(iv) a modular home;

(v) a motor vehicle; or

(vi) watercraft.

(b) The location of the sale of tangible personal property described in Subsection (1)(a) is determined in accordance with Sections 59-12-211 and 59-12-212 if the tangible personal property described in Subsection (1)(a) is transportation

equipment as defined in Section 59-12-211.

(2) If an item of tangible personal property described in Subsection (1)(a) is sold by a dealer of that tangible personal property, the location of the sale of that tangible personal property is the business location of the dealer.

(3) If an item of tangible personal property described in Subsection (1)(a) is sold by a person other than a dealer of that tangible personal property, the location of the sale of that tangible personal property is:

(a) if the tangible personal property is required to be registered with the state before the tangible personal property is used on a public highway, on a public waterway, on public land, or in the air, the location of the street address at which the tangible personal property is registered; or

(b) if the tangible personal property is not required to be registered as provided in Subsection (3)(a), the location of the street address at which the purchaser of the tangible personal property resides.

(4) This section does not apply to the lease or rental of tangible personal property described in Subsection (1)(a).

Enacted by Chapter 384, 2008 General Session

59-12-214. Location of a transaction involving the lease or rental of certain tangible personal property or a product transferred electronically.

(1) As used in this section:

(a) "Primary property location" means an address for tangible personal property or a product transferred electronically:

(i) a lessee provides to a lessor; and

(ii) that is available to the lessor from the lessor's records maintained in the ordinary course of business.

(b) "Primary property location" does not include an address described in Subsection (1)(a) if use of that address constitutes bad faith.

(2) (a) Except as provided in Subsection (2)(b) and notwithstanding Section 59-12-211, if a lease or rental of tangible personal property or a product transferred electronically that is subject to taxation under this part requires recurring periodic payments:

(i) the location of the transaction for any down payment and for the first recurring periodic payment is as provided in Section 59-12-211; and

(ii) the location of the transaction for the second recurring periodic payment and subsequent recurring periodic payments is the primary property or product location for each time period covered by the recurring periodic payment.

(b) If a transaction subject to taxation under this chapter involving a lease or rental of an aircraft or a motor vehicle, semitrailer, or trailer that is not transportation equipment as defined in Section 59-12-211 requires recurring periodic payments, the location of the transaction for a down payment and for each recurring periodic payment is the primary property location for each time period covered by the recurring periodic payment.

(3) Notwithstanding Section 59-12-211, if a transaction involving a lease or

rental of the following does not require recurring periodic payments, the location of the transaction is as provided in Section 59-12-211 for each lease or rental payment for:

(a) tangible personal property or a product transferred electronically that is subject to taxation under this chapter; or

(b) an aircraft or a motor vehicle, semitrailer, or trailer that is:

(i) not transportation equipment under Section 59-12-211; and

(ii) subject to taxation under this chapter.

(4) This section does not affect the imposition or computation of a tax under this chapter on:

(a) a lease or rental of tangible personal property or a product transferred electronically that is subject to taxation under this chapter on:

(i) the basis of a lump sum; or

(ii) an accelerated basis; or

(b) the acquisition of tangible personal property or a product transferred electronically if that tangible personal property or product transferred electronically is:

(i) subject to taxation under this chapter; and

(ii) for lease.

Enacted by Chapter 384, 2008 General Session

59-12-215. Location of transaction involving telecommunications service or other related service.

(1) As used in this section:

(a) "Air-to-ground radiotelephone service" means a radio service:

(i) as defined in 47 C.F.R. Sec. 22.99; and

(ii) for which a common carrier is authorized to offer and provide radio telecommunications service:

(A) for hire; and

(B) to a subscriber in an aircraft.

(b) "Call-by-call basis" means a method of charging for telecommunications service that is measured by individual calls.

(c) "Communications channel" means a physical or virtual path of communications over which a signal is transmitted between or among customer channel termination points.

(d) (i) Subject to Subsection (1)(d)(ii), "customer" means:

(A) a person that is obligated under a contract with a telecommunications service provider to pay for telecommunications service received under the contract; or

(B) if the end user is not the person described in Subsection (1)(d)(i)(A), the end user of telecommunications service.

(ii) "Customer" does not include a reseller:

(A) of telecommunications service; or

(B) for mobile telecommunications service, of a serving carrier under an agreement to serve a customer outside the home service provider’s licensed service area.

(e) "Customer channel termination point" means the location where a customer:

(i) inputs communications; or
(ii) receives communications.
(f) "End user" means:
(i) an individual who uses a telecommunications service; or
(ii) for a telecommunications service provided to a person who is not an individual, an individual who uses a telecommunications service on behalf of the person who is provided the telecommunications service.
(g) "Home service provider" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
(h) "Service address" means:
(i) regardless of where a call is billed or paid, the location of the telecommunications equipment:
(A) to which a customer's call is charged; and
(B) from which the call:
(I) originates; or
(II) terminates;
(ii) if the location described in Subsection (1)(h)(i) is not known, the location of the origination point of the signal of the telecommunications service first identified by:
(A) the telecommunications system of the telecommunications service provider; or
(B) if the system used to transport the signal of the telecommunications service is not a system of the telecommunications service provider, information received by the telecommunications service provider from the telecommunications service provider's telecommunications service provider; or
(iii) if the locations described in Subsections (1)(h)(i) and (ii) are not known, the location of a customer’s place of primary use.
(2) Except as provided in Subsection (4), the location of a sale of a telecommunications service sold on a call-by-call basis is:
(a) the location at which the call originates and terminates; or
(b) the location at which:
(i) the call:
(A) originates; or
(B) terminates; and
(ii) the service address is located.
(3) Except as provided in Subsection (4), the location of a sale of a telecommunications service sold on a basis other than a call-by-call basis is the customer’s place of primary use.
(4) Notwithstanding Subsection (2) or (3):
(a) the location of a sale of a mobile telecommunications service, other than an air-to-ground radiotelephone service or a prepaid calling service, is the location required by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.;
(b) the location of a sale of a postpaid calling service is the origination point of the telecommunications signal as first identified by:
(i) the seller’s telecommunications system; or
(ii) if the system used to transport the telecommunications signal is not that of

the seller, information received by the seller from the seller's telephone service provider;

(c) the location of a sale of a prepaid calling service is the location determined under Section 59-12-211; and

(d) (i) subject to Subsection (4)(d)(ii), the location of a sale of a prepaid wireless calling service is the location determined under Section 59-12-211; and

(ii) for purposes of Subsection (4)(d)(i), the location of a transaction determined under Subsection 59-12-211(6) is considered to include the location associated with the mobile telephone number.

(5) The location of a sale of a private communication service is:

(a) if all of the customer channel termination points are located entirely within one county, city, or town, the location of the sale is the county, city, or town in which all of the customer channel termination points are located;

(b) if a charge for a service related to a customer channel termination point is separately stated, the location of the sale is the location in which the customer channel termination point is located;

(c) if a charge for service for a segment of a channel between two customer channel termination points located in different counties, cities, or towns is separately stated, the location of the sale is each county, city, or town:

(i) in which the customer channel termination points are located; and

(ii) in equal proportions; and

(d) if a charge for service for a segment of a channel located in more than one county, city, or town is not separately stated, the location of the sale is:

(i) each county, city, or town in which a segment of the channel is located; and

(ii) in proportion to the percentage of customer channel termination points in each county, city, or town compared to the total customer channel termination points in all counties, cities, and towns.

(6) The location of a sale of Internet access service is the customer's place of primary use.

(7) The location of a sale of an ancillary service is the customer's place of primary use.

Amended by Chapter 203, 2009 General Session

59-12-216. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-217. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

59-12-218. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;

(Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition; or

(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

59-12-301. Transient room tax -- Rate -- Expenditure of revenues -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.

(1) (a) A county legislative body may impose a tax on charges for the accommodations and services described in Subsection 59-12-103(1)(i) at a rate of not to exceed 4.25% beginning on or after October 1, 2006.

(b) Subject to Subsection (2), the revenues raised from the tax imposed under Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.

(c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed under Part 6, Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax.

(2) If a county legislative body of a county of the first class imposes a tax under this section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

(a) deposited into the Transient Room Tax Fund created by Section 63M-1-2203; and

(b) expended as provided in Section 63M-1-2203.

(3) Subject to Subsection (4), a county legislative body:

(a) may increase or decrease the tax authorized under this part; and

(b) shall regulate the tax authorized under this part by ordinance.

(4) (a) For purposes of this Subsection (4):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(b)(ii) from the county.

(ii) The notice described in Subsection (4)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (4)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (4)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (4)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (4)(b)(i), for a transaction described in

Subsection (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under this section.

(iii) Subsections (4)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

(d) (i) Except as provided in Subsection (4)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (4)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (4)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (4)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (4)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (4)(d)(ii)(A), the rate of the tax.

(e) (i) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection (4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection (4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under this section.

(iii) Subsections (4)(e)(i) and (ii) apply to transactions subject to a tax under

Subsection 59-12-103(1)(i).

Amended by Chapter 369, 2012 General Session

59-12-302. Collection of tax -- Administrative fee.

(1) Except as provided in Subsection (2) or (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(2) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (6).

(4) The commission:

(a) shall distribute the revenues collected from the tax to the county within which the revenues were collected; and

(b) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenues the commission collects from a tax under this part.

Amended by Chapter 288, 2011 General Session
Amended by Chapter 309, 2011 General Session, (Coordination Clause)
Amended by Chapter 309, 2011 General Session

59-12-304. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-305. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax

required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

59-12-306. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;

(Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition; or

(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;

(Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

59-12-352. Transient room tax authority for municipalities and military installation development authority -- Purposes for which revenues may be used.

(1) (a) Except as provided in Subsection (5), the governing body of a municipality may impose a tax of not to exceed 1% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.

(2) Subject to the limitations of Subsection (1), a governing body of a municipality may, by ordinance, increase or decrease the tax under this part.

(3) A governing body of a municipality shall regulate the tax under this part by ordinance.

(4) A municipality may use revenues generated by the tax under this part for general fund purposes.

(5) (a) A municipality may not impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(b) Subsection (5)(a) does not apply to the military installation development authority's imposition of a tax under this section.

Amended by Chapter 92, 2009 General Session

59-12-353. Additional municipal transient room tax to repay bonded or other indebtedness.

(1) Subject to the limitations of Subsection (2), the governing body of a municipality may, in addition to the tax authorized under Section 59-12-352, impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i) if the governing body of the municipality:

(a) before January 1, 1996, levied and collected a license fee or tax under Section 10-1-203; and

(b) before January 1, 1997, took official action to obligate the municipality in reliance on the license fees or taxes under Subsection (1)(a)(i) to the payment of debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement.

(2) The governing body of a municipality may impose the tax under this section until the sooner of:

(a) the day on which the following have been paid in full:

(i) the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1) (b); and

(ii) refunding obligations that the municipality incurred as a result of the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1) (b); or

(b) 25 years from the day on which the municipality levied the tax under this section.

Amended by Chapter 156, 2004 General Session
Amended by Chapter 255, 2004 General Session

59-12-354. Collection of tax -- Administrative charge.

(1) Except as provided in Subsections (2) and (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(2) (a) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(b) The commission:

(i) except as provided in Subsection (2)(b)(ii), shall distribute the revenues collected from the tax to the municipality within which the revenues were collected; and

(ii) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (6).

Amended by Chapter 288, 2011 General Session
Amended by Chapter 309, 2011 General Session

59-12-355. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.

(1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) Except as provided in Subsection (2)(c), if, on or after July 1, 2004, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on

the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(ii) Notwithstanding Subsection (2)(a), for a transaction described in Subsection (2)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(iii) Subsections (2)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

(3) (a) Except as provided in Subsection (3)(c), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(ii) Notwithstanding Subsection (3)(a), for a transaction described in Subsection (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

(I) Section 59-12-352; or

(II) Section 59-12-353.

(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

Amended by Chapter 255, 2004 General Session

59-12-357. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-358. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under

this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

59-12-359. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or
(C) on a taxing jurisdiction; or
(ii) an erroneous classification by the commission:
(A) in the taxability matrix the commission provides in accordance with the agreement; and
(B) with respect to a term:
(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition; or
(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
(i) incorrect data provided by the commission:
(A) on a tax rate;
(B) on a boundary; or
(C) on a taxing jurisdiction; or
(ii) an erroneous classification by the commission:
(A) in the taxability matrix the commission provides in accordance with the agreement; and
(B) with respect to a term:
(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

59-12-401. Resort communities tax authority for cities, towns, and military installation development authority -- Base -- Rate -- Collection fees.

(1) (a) In addition to other sales and use taxes, a city or town in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may impose a sales and use tax of up to 1.1% on the transactions described in Subsection 59-12-103(1) located within the city or town.
(b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this section on:
(i) the sale of:
(A) a motor vehicle;
(B) an aircraft;
(C) a watercraft;
(D) a modular home;
(E) a manufactured home; or
(F) a mobile home;

(ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city or town imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) (a) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section on the transactions described in Subsection 59-12-103(1) located within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a city or a town.

(b) For purposes of calculating the permanent census population within a project area, the board as defined in Section 63H-1-102 shall:

(i) use the actual number of permanent residents within the project area as determined by the board;

(ii) adopt a resolution verifying the population number; and

(iii) provide the commission any information required in Section 59-12-405.

(c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may impose the sales and use tax under this section if there are no permanent residents.

Amended by Chapter 362, 2013 General Session

59-12-402. Additional resort communities sales and use tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements -- Prohibition of military installation development authority.

(1) (a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to .5% on the

transactions described in Subsection 59-12-103(1) located within the municipality.

(b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:

(i) the sale of:

(A) a motor vehicle;

(B) an aircraft;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home;

(ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A municipality imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) To impose an additional resort communities sales tax under this section, the governing body of the municipality shall:

(a) pass a resolution approving the tax; and

(b) except as provided in Subsection (6), obtain voter approval for the tax as provided in Subsection (4).

(4) To obtain voter approval for an additional resort communities sales tax under Subsection (3)(b), a municipality shall:

(a) hold the additional resort communities sales tax election during:

(i) a regular general election; or

(ii) a municipal general election; and

(b) publish notice of the election:

(i) 15 days or more before the day on which the election is held; and

(ii) (A) in a newspaper of general circulation in the municipality; and

(B) as required in Section 45-1-101.

(5) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax as provided in Section 59-12-403.

(6) (a) Except as provided in Subsection (6)(b), a municipality is not subject to

the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

(b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.

(7) A military installation development authority authorized to impose a resort communities tax under Section 59-12-401 may not impose an additional resort communities sales tax under this section.

Amended by Chapter 9, 2010 General Session

59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) For purposes of this section:

(a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a city or town.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-401; or

(II) Section 59-12-402.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Section 59-12-401; or

(B) Section 59-12-402.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the city or town that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-401; or

(II) Section 59-12-402.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Section 59-12-401; or

(B) Section 59-12-402.

(d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (3)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

Act, the commission may by rule define the term "catalogue sale."

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to Subsections 59-12-205(2) through (6).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

Amended by Chapter 254, 2012 General Session

59-12-405. Definitions -- Municipality filing requirements for lodging unit capacity -- Failure to meet eligibility requirements -- Notice to municipality -- Municipality authority to impose tax.

(1) As used in this section:

(a) "high-occupancy lodging unit" means each bedroom in a:

(i) hostel; or

(ii) a unit similar to a hostel as determined by the commission by rule;

(b) "high-occupancy lodging unit capacity of a municipality" means the product of:

(i) the total number of high-occupancy lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and

(ii) four;

(c) "recreational lodging unit" means each site in a:

(i) campground that:

(A) is issued a business license by the municipality in which the campground is located; and

(B) provides the following hookups:

(I) water;

(II) sewer; and

(III) electricity; or

(ii) recreational vehicle park that provides the following hookups:

(A) water;

(B) sewer; and

(C) electricity; or

(iii) unit similar to Subsection (1)(c)(i) or (ii) as determined by the commission by rule;

(d) "recreational lodging unit capacity of a municipality" means the product of:

(i) the total number of recreational lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the

municipality files the form described in Subsection (3); and

(ii) four;

(e) "special lodging unit" means a lodging unit:

(i) that is a:

(A) high-occupancy lodging unit;

(B) recreational lodging unit; or

(C) standard lodging unit;

(ii) for which the commission finds that in determining the capacity of the lodging unit the lodging unit should be multiplied by a number other than a number described in:

(A) for a high-occupancy lodging unit, Subsection (1)(b)(ii);

(B) for a recreational lodging unit, Subsection (1)(d)(ii); or

(C) for a standard lodging unit, Subsection (1)(i)(ii); and

(iii) for which the municipality in which the lodging unit is located files a written request with the commission for the finding described in Subsection (1)(e)(ii);

(f) "special lodging unit capacity of a municipality" means the sum of the special lodging unit numbers for all of the special lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3);

(g) "special lodging unit number" means the number by which the commission finds that a special lodging unit should be multiplied in determining the capacity of the special lodging unit;

(h) "standard lodging unit" means each bedroom in:

(i) a hotel;

(ii) a motel;

(iii) a bed and breakfast establishment;

(iv) an inn;

(v) a condominium that is:

(A) part of a rental pool; or

(B) regularly rented out for a time period of less than 30 consecutive days;

(vi) a property used as a residence that is:

(A) part of a rental pool; or

(B) regularly rented out for a time period of less than 30 consecutive days; or

(vii) a unit similar to Subsections (1)(h)(i) through (vi) as determined by the commission by rule;

(i) "standard lodging unit capacity of a municipality" means the product of:

(i) the total number of standard lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and

(ii) three; and

(j) "transient room capacity" means the sum of:

(i) the high-occupancy lodging unit capacity of a municipality;

(ii) the recreational lodging unit capacity of a municipality;

(iii) the special lodging unit capacity of a municipality; and

(iv) the standard lodging unit capacity of a municipality.

(2) A municipality that imposes a tax under this part shall provide the commission the following information as provided in this section:

(a) the high-occupancy lodging unit capacity of the municipality;

(b) the recreational lodging unit capacity of the municipality;

(c) the special lodging unit capacity of the municipality; and

(d) the standard lodging unit capacity of the municipality.

(3) A municipality shall file with the commission the information required by Subsection (1):

(a) on a form provided by the commission; and

(b) on or before:

(i) for a municipality that is required by Section 59-12-403 to provide notice to the commission, the day on which the municipality provides the notice required by Section 59-12-403 to the commission; or

(ii) for a municipality that is not required by Section 59-12-403 to provide notice to the commission, July 1 of each year.

(4) If the commission determines that a municipality that files the form described in Subsection (3) has a transient room capacity that is less than 66% of the municipality's permanent census population, the commission shall notify the municipality in writing:

(a) that the municipality's transient room capacity is less than 66% of the municipality's permanent census population; and

(b) (i) for a municipality that is required by Section 59-12-403 to provide notice to the commission, within 30 days after the day on which the municipality provides the notice to the commission; or

(ii) for a municipality that is not required by Section 59-12-403 to provide notice to the commission, on or before September 1.

(5) (a) For a municipality that does not impose a tax under Section 59-12-401 on the day on which the municipality files the form described in Subsection (3), if the commission provides written notice described in Subsection (4) to the municipality, the municipality may not impose a tax under this part until the municipality meets the requirements of this part to enact the tax.

(b) For a municipality that is not required by Section 59-12-403 to provide notice to the commission, if the commission provides written notice described in Subsection (4) to the municipality for two consecutive calendar years, the municipality may not impose a tax under this part:

(i) beginning on July 1 of the year after the year during which the commission provided written notice described in Subsection (4):

(A) to the municipality; and

(B) for the second consecutive calendar year; and

(ii) until the municipality meets the requirements of this part to enact the tax.

Enacted by Chapter 224, 2004 General Session

59-12-406. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-407. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

59-12-408. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;

(Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition; or

(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:

(i) incorrect data provided by the commission:
(A) on a tax rate;
(B) on a boundary; or
(C) on a taxing jurisdiction; or
(ii) an erroneous classification by the commission:
(A) in the taxability matrix the commission provides in accordance with the agreement; and
(B) with respect to a term:
(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

59-12-601.1. Title.

This part is known as the "Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act."

Enacted by Chapter 286, 2008 General Session

59-12-602. Definitions.

As used in this part:

(1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional significance, as defined by the Transportation Commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) "Airport facility" includes:

(i) an appurtenance to an airport, including a fixed guideway that provides transportation service to or from the airport;

(ii) a control tower, including a radar system;

(iii) a public area of an airport; or

(iv) a terminal facility.

(2) "Convention facility" means any publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.

(3) "Cultural facility" means any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.

(4) "Recreation facility" or "tourist facility" means any publicly owned or operated park, campground, marina, dock, golf course, water park, historic park, monument, planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

(5) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain, or fast-food service where food is prepared for immediate consumption.

(b) "Restaurant" does not include:

(i) any retail establishment whose primary business or function is the sale of fuel or food items for off-premise, but not immediate, consumption; and

(ii) a theater that sells food items, but not a dinner theater.

Amended by Chapter 263, 2010 General Session

59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) alcoholic beverages;

(B) food and food ingredients; or

(C) prepared food; and

(iii) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided for in Subsections (1)(a)(i) through (iii) may be used for:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility.

(b) A county of the first class shall expend at least $450,000 each year of the revenues from the imposition of a tax authorized by Subsection (1)(a)(iii) within the

county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community development and renewal agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

(a) an airport facility;

(b) a convention facility;

(c) a cultural facility;

(d) a recreation facility; or

(e) a tourist facility.

(4) (a) In order to impose the tax under Subsection (1), each county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) In order to maintain in effect its tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be appointed by the county legislative body of the county of the first class as follows:

(A) one member shall be a resident of the unincorporated area of the county;

(B) two members shall be residents of the incorporated area of the county; and

(C) one member shall be a resident of the unincorporated or incorporated area of the county; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenues collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (6).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(8) The commission shall distribute the revenues generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the revenues based on the percentages generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenues based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate

decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

Amended by Chapter 309, 2011 General Session

59-12-605. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-606. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of

an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

59-12-607. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:
(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition; or
(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
(i) incorrect data provided by the commission:
(A) on a tax rate;
(B) on a boundary; or
(C) on a taxing jurisdiction; or
(ii) an erroneous classification by the commission:
(A) in the taxability matrix the commission provides in accordance with the agreement; and
(B) with respect to a term:
(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

59-12-701. Purpose statement.

The Utah Legislature finds and declares that:

(1) Recreational and zoological facilities and the botanical, cultural, and zoological organizations of the state of Utah enhance the quality of life of Utah's citizens, as well as the continuing growth of Utah's tourist, convention, and recreational industries.

(2) Utah was the first state in this nation to create and financially support a state arts agency, now the Utah Arts Council, which is committed to the nurturing and growth of cultural pursuits.

(3) Utah has provided, and intends to continue, the financial support of recreational and zoological facilities and the botanical, cultural, and zoological organizations of this state.

(4) The state's support of its recreational and zoological facilities and its botanical, cultural, and zoological organizations has not been sufficient to assure the continuing existence and growth of these facilities and organizations, and the Legislature believes that local government may wish to play a greater role in the support of these organizations.

(5) Without jeopardizing the state's ongoing support of its recreational and zoological facilities and its botanical, cultural, and zoological organizations, the Legislature intends to permit the counties of the state of Utah to enhance public financial support of Utah's publicly owned or operated recreational and zoological

facilities, and botanical, cultural, and zoological organizations owned or operated by institutions or private nonprofit organizations, through the imposition of a county sales and use tax.

(6) In a county of the first class, it is necessary and appropriate to allocate a tax imposed under this part in a manner that provides adequate predictable support to a fixed number of botanical and cultural organizations and that gives the county legislative body discretion to allocate the tax revenues to other botanical and cultural organizations.

Amended by Chapter 296, 2003 General Session

59-12-702. Definitions.

As used in this part:

(1) "Administrative unit" means a division of a private nonprofit organization or institution that:

(a) would, if it were a separate entity, be a botanical organization or cultural organization; and

(b) consistently maintains books and records separate from those of its parent organization.

(2) "Botanical organization" means:

(a) a private nonprofit organization or institution having as its primary purpose the advancement and preservation of plant science through horticultural display, botanical research, and community education; or

(b) an administrative unit.

(3) "Cultural facility" is as defined in Section 59-12-602.

(4) (a) "Cultural organization":

(i) means:

(A) a private nonprofit organization or institution having as its primary purpose the advancement and preservation of:

(I) natural history;

(II) art;

(III) music;

(IV) theater;

(V) dance; or

(VI) cultural arts, including literature, a motion picture, or storytelling;

(B) an administrative unit; and

(ii) includes, for purposes of Subsections 59-12-704(1)(d) and (6) only:

(A) a private nonprofit organization or institution having as its primary purpose the advancement and preservation of history; or

(B) a municipal or county cultural council having as its primary purpose the advancement and preservation of:

(I) history;

(II) natural history;

(III) art;

(IV) music;

(V) theater; or
(VI) dance.
(b) "Cultural organization" does not include:
(i) an agency of the state;
(ii) except as provided in Subsection (4)(a)(ii)(B), a political subdivision of the state;
(iii) an educational institution whose annual revenues are directly derived more than 50% from state funds; or
(iv) in a county of the first or second class, a radio or television broadcasting network or station, cable communications system, newspaper, or magazine.
(5) "Institution" means an institution listed in Subsections 53B-1-102(1)(b) through (k).
(6) "Recreational facility" means a publicly owned or operated park, campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system, or other facility used for recreational purposes.
(7) "Rural radio station" means a nonprofit radio station based in a county of the third, fourth, fifth, or sixth class.
(8) In a county of the first class, "zoological facility" means a public, public-private partnership, or private nonprofit building, exhibit, utility and infrastructure, walkway, pathway, roadway, office, administration facility, public service facility, educational facility, enclosure, public viewing area, animal barrier, animal housing, animal care facility, and veterinary and hospital facility related to the advancement, exhibition, or preservation of a mammal, bird, reptile, or an amphibian.
(9) (a) (i) Except as provided in Subsection (9)(a)(ii), "zoological organization" means a public, public-private partnership, or private nonprofit organization having as its primary purpose the advancement and preservation of zoology.
(ii) In a county of the first class, "zoological organization" means a nonprofit organization having as its primary purpose the advancement and exhibition of a mammal, bird, reptile, or an amphibian to an audience of 75,000 or more persons annually.
(b) "Zoological organization" does not include an agency of the state, educational institution, radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

Amended by Chapter 416, 2011 General Session

59-12-703. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenues -- Administration -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a county legislative body may submit an opinion question to the residents of that county, by majority vote of all members of the legislative body, so that each resident of the county, except residents in municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an opportunity to express the resident's opinion on the

imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the county, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities, botanical organizations, cultural organizations, and zoological organizations, and rural radio stations, in that county; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the county), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenues collected from the sales and use tax shall be expended)?"

(c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) sales and uses within municipalities that have already imposed a sales and use tax under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) The election shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) (a) If the county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax as prescribed in Subsection (1), the county legislative body may impose the tax by a majority vote of all members of the legislative body on the transactions:

(i) described in Subsection (1); and

(ii) within the county, including the cities and towns located in the county, except those cities and towns that have already imposed a sales and use tax under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.

(b) A county legislative body may revise county ordinances to reflect statutory changes to the distribution formula or eligible recipients of revenues generated from a tax imposed under Subsection (2)(a):

(i) after the county legislative body submits an opinion question to residents of the county in accordance with Subsection (1) giving them the opportunity to express

their opinion on the proposed revisions to county ordinances; and

(ii) if the county legislative body determines that a majority of those voting on the opinion question have voted in favor of the revisions.

(3) Subject to Section 59-12-704, revenues collected from a tax imposed under Subsection (2) shall be expended:

(a) to fund cultural facilities, recreational facilities, and zoological facilities located within the county or a city or town located in the county, except a city or town that has already imposed a sales and use tax under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(b) to fund ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a);

(ii) botanical organizations, cultural organizations, and zoological organizations within the county; and

(iii) rural radio stations within the county; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) A tax authorized under this part shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period in accordance with this section.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the county.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) The enactment of a tax takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under this section.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) the rate of the tax described in Subsection (5)(e)(ii)(A).

(f) (i) The enactment of a tax takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.

(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under this section.

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Amended by Chapter 254, 2012 General Session

59-12-704. Distribution of revenues -- Advisory board creation -- Determining operating expenses -- Administrative charge.

(1) Except as provided in Subsections (3)(b) and (5), and subject to the requirements of this section, any revenues collected by a county of the first class under this part shall be distributed annually by the county legislative body to support cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations within that first class county as follows:

(a) 30% of the revenue collected by the county under this section shall be distributed by the county legislative body to support cultural facilities and recreational facilities located within the county;

(b) (i) subject to Subsection (1)(b)(ii) and except as provided in Subsection (1)(b)(iii), 12-1/8% of the revenue collected by the county under this section shall be distributed by the county legislative body to support no more than three zoological facilities and zoological organizations located within the county, with 94.5% of that revenue being distributed to zoological facilities and zoological organizations with average annual operating expenses of $2,000,000 or more and 5.5% of that revenue being distributed to zoological facilities and zoological organizations with average annual operating expenses of less than $2,000,000;

(ii) except as provided in Subsection (1)(b)(iii), the county legislative body shall distribute the money described in Subsection (1)(b)(i) among the zoological facilities and zoological organizations in proportion to their average annual operating expenses as determined under Subsection (3); and

(iii) if a zoological facility or zoological organization is created or relocated within the county after June 1, 2003, the county legislative body shall distribute the money described in Subsection (1)(b)(i) as it determines appropriate;

(c) (i) 48-7/8% of the revenue collected by the county under this section shall be distributed to no more than 23 botanical organizations and cultural organizations with average annual operating expenses of more than $250,000 as determined under Subsection (3);

(ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the money described in Subsection (1)(c)(i) among the botanical organizations and cultural organizations in proportion to their average annual operating expenses as determined under Subsection (3); and

(iii) the amount distributed to any botanical organization or cultural organization described in Subsection (1)(c)(i) may not exceed 35% of the botanical organization's or cultural organization's operating budget; and

(d) (i) 9% of the revenue collected by the county under this section shall be distributed to botanical organizations and cultural organizations that do not receive revenue under Subsection (1)(c)(i); and

(ii) the county legislative body shall determine how the money shall be distributed among the botanical organizations and cultural organizations described in Subsection (1)(d)(i).

(2) (a) The county legislative body of each county shall create an advisory board to advise the county legislative body on disbursement of funds to botanical

organizations and cultural organizations under Subsection (1)(c)(i).

(b) (i) The advisory board under Subsection (2)(a) shall consist of seven members appointed by the county legislative body.

(ii) In a county of the first class, two of the seven members of the advisory board under Subsection (2)(a) shall be appointed from the Utah Arts Council.

(3) (a) Except as provided in Subsection (3)(b), to be eligible to receive money collected by the county under this part, a botanical organization, cultural organization, and zoological organization located within a county of the first class shall, every three years:

(i) calculate their average annual operating expenses based upon audited operating expenses for three preceding fiscal years; and

(ii) submit to the appropriate county legislative body:

(A) a verified audit of annual operating expenses for each of those three preceding fiscal years; and

(B) the average annual operating expenses as calculated under Subsection (3)(a)(i).

(b) The county legislative body may waive the operating expenses reporting requirements under Subsection (3)(a) for organizations described in Subsection (1)(d)(i).

(4) When calculating average annual operating expenses as described in Subsection (3), each botanical organization, cultural organization, and zoological organization shall use the same three-year fiscal period as determined by the county legislative body.

(5) (a) By July 1 of each year, the county legislative body of a first class county may index the threshold amount in Subsections (1)(c) and (d).

(b) Any change under Subsection (5)(a) shall be rounded off to the nearest $100.

(6) (a) In a county except for a county of the first class, the county legislative body shall by ordinance provide for the distribution of the entire amount of the revenues generated by the tax imposed by this section:

(i) as provided in this Subsection (6); and

(ii) as stated in the opinion question described in Subsection 59-12-703(1).

(b) Pursuant to an interlocal agreement established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, a county described in Subsection (6)(a) may distribute to a city, town, or political subdivision within the county revenues generated by a tax under this part.

(c) The revenues distributed under Subsection (6)(a) or (b) shall be used for one or more organizations or facilities defined in Section 59-12-702 regardless of whether the revenues are distributed:

(i) directly by the county described in Subsection (6)(a) to be used for an organization or facility defined in Section 59-12-702; or

(ii) in accordance with an interlocal agreement described in Subsection (6)(b).

(7) A county legislative body may retain up to 1.5% of the proceeds from a tax under this part for the cost of administering this part.

(8) The commission shall retain and deposit an administrative charge in

accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

Amended by Chapter 309, 2011 General Session
Amended by Chapter 416, 2011 General Session

59-12-705. Free or reduced admission day available to all state residents.

Each botanical organization, cultural organization, or zoological organization that receives money from a tax imposed under this part and that periodically offers a waived or discounted admission fee shall make the waived or discounted admission fee available to all residents of the state.

Amended by Chapter 416, 2011 General Session

59-12-707. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-708. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies;

and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

59-12-709. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:
(i) incorrect data provided by the commission:
(A) on a tax rate;
(B) on a boundary; or
(C) on a taxing jurisdiction; or
(ii) an erroneous classification by the commission:
(A) in the taxability matrix the commission provides in accordance with the agreement; and
(B) with respect to a term:
(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition; or
(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
(i) incorrect data provided by the commission:
(A) on a tax rate;
(B) on a boundary; or
(C) on a taxing jurisdiction; or
(ii) an erroneous classification by the commission:
(A) in the taxability matrix the commission provides in accordance with the agreement; and
(B) with respect to a term:
(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

59-12-801. Definitions.
As used in this part:
(1) "Emergency medical services" is as defined in Section 26-8a-102.
(2) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.
(3) "Freestanding urgent care center" means a facility that provides outpatient health care service:
(a) on an as-needed basis, without an appointment;
(b) to the public;
(c) for the diagnosis and treatment of a medical condition if that medical condition does not require hospitalization or emergency intervention for a life threatening or potentially permanently disabling condition; and
(d) including one or more of the following services:
(i) a medical history physical examination;

(ii) an assessment of health status; or
(iii) treatment:
(A) for a variety of medical conditions; and
(B) that is commonly offered in a physician's office.
(4) "Nursing care facility" is as defined in Section 26-21-2.
(5) "Rural city hospital" means a hospital owned by a city that is located within a third, fourth, fifth, or sixth class county.
(6) "Rural county health care facility" means a:
(a) rural county hospital; or
(b) rural county nursing care facility.
(7) "Rural county hospital" means a hospital owned by a county that is:
(a) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and
(b) located outside of a standard metropolitan statistical area, as designated by the United States Bureau of the Census.
(8) "Rural county nursing care facility" means a nursing care facility owned by:
(a) a county that is:
(i) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and
(ii) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau; or
(b) a special service district if the special service district is:
(i) created for the purpose of operating the nursing care facility; and
(ii) within a county that is:
(A) a third, fourth, fifth, or sixth class county, as defined in Section 17-50-501; and
(B) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.
(9) "Rural emergency medical services" means emergency medical services that are provided by a county that is:
(a) a fifth or sixth class county, as defined in Section 17-50-501; and
(b) located outside of a standard metropolitan statistical area, as designated by the United States Census Bureau.
(10) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

Amended by Chapter 50, 2014 General Session

59-12-802. Imposition of rural county health care facilities tax -- Expenditure of tax revenues -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A county legislative body of a county of the third, fourth, fifth, or sixth class may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the county.
(b) Subject to Subsection (3), the money collected from a tax under this section may be used to fund:

(i) for a county of the third or fourth class, rural county health care facilities in that county; or

(ii) for a county of the fifth or sixth class:

(A) rural emergency medical services in that county;

(B) federally qualified health centers in that county;

(C) freestanding urgent care centers in that county;

(D) rural county health care facilities in that county;

(E) rural health clinics in that county; or

(F) a combination of Subsections (1)(b)(ii)(A) through (E).

(c) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; and

(iii) except as provided in Subsection (1)(e), amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A county legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1), a county legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the county's legislative body; and

(ii) county's registered voters voting on the imposition of the tax.

(b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) (a) The money collected from a tax imposed under Subsection (1) by a county legislative body of a county of the third or fourth class may only be used for the financing of:

(i) ongoing operating expenses of a rural county health care facility within that county;

(ii) the acquisition of land for a rural county health care facility within that county; or

(iii) the design, construction, equipping, or furnishing of a rural county health care facility within that county.

(b) The money collected from a tax imposed under Subsection (1) by a county of the fifth or sixth class may only be used to fund:

(i) ongoing operating expenses of a center, clinic, or facility described in Subsection (1)(b)(ii) within that county;

(ii) the acquisition of land for a center, clinic, or facility described in Subsection (1)(b)(ii) within that county;

(iii) the design, construction, equipping, or furnishing of a center, clinic, or

facility described in Subsection (1)(b)(ii) within that county; or

(iv) rural emergency medical services within that county.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the county legislative body as provided in Subsection (1).

(b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to Subsections 59-12-205(2) through (6).

(c) A county legislative body shall distribute money collected from a tax under this section quarterly.

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this section.

Amended by Chapter 50, 2014 General Session

59-12-804. Imposition of rural city hospital tax -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) (a) A city legislative body may impose a sales and use tax of up to 1%:

(i) on the transactions described in Subsection 59-12-103(1) located within the city; and

(ii) to fund rural city hospitals in that city.

(b) Notwithstanding Subsection (1)(a)(i), a city legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2) (a) Before imposing a tax under Subsection (1)(a), a city legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the city legislative body; and

(ii) city's registered voters voting on the imposition of the tax.

(b) The city legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) The money collected from a tax imposed under Subsection (1) may only be used to fund:

(a) ongoing operating expenses of a rural city hospital;

(b) the acquisition of land for a rural city hospital; or

(c) the design, construction, equipping, or furnishing of a rural city hospital.

(4) (a) A tax under this section shall be:

(i) except as provided in Subsection (4)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the ten-year period by the city legislative body as provided in Subsection (1).

(b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to Subsections 59-12-205(2) through (6).

(5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this section.

Amended by Chapter 50, 2014 General Session

59-12-805. Distribution of money collected from rural city hospital tax.

(1) Except as provided in Subsection 59-12-804(5) and Subsection (2), all money collected from a tax under Section 59-12-804 shall be distributed quarterly by the city legislative body to rural city hospitals.

(2) If there is more than one rural city hospital in a city, the money collected from a tax under Section 59-12-804 shall be distributed as determined by the city legislative body.

Amended by Chapter 50, 2014 General Session

59-12-806. Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.

(1) For purposes of this section:

(a) "Annexation" means an annexation to:

(i) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

(ii) a city under Title 10, Chapter 2, Part 4, Annexation.

(b) "Annexing area" means an area that is annexed into a county or city.

(2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a county or city enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice

meeting the requirements of Subsection (2)(b) from the county or city.

(b) The notice described in Subsection (2)(a)(ii) shall state:

(i) that the county or city will enact or repeal a tax or change the rate of a tax under this part;

(ii) the statutory authority for the tax described in Subsection (2)(b)(i);

(iii) the effective date of the tax described in Subsection (2)(b)(i); and

(iv) if the county or city enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.

(c) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-802; or

(II) Section 59-12-804.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Section 59-12-802; or

(B) Section 59-12-804.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the county or city that annexes the annexing area.

(b) The notice described in Subsection (3)(a)(ii) shall state:

(i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i);

(iii) the effective date of the tax described in Subsection (3)(b)(i); and

(iv) if the county or city enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.

(c) (i) The enactment of a tax or a tax rate increase takes effect on the first day

of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under:

(I) Section 59-12-802; or

(II) Section 59-12-804.

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Section 59-12-802; or

(B) Section 59-12-804.

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of a tax under Subsection (3)(a).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Amended by Chapter 254, 2012 General Session

59-12-808. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-809. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

59-12-810. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment

if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;

(Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition; or

(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;

(Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

59-12-1101. Statewide purpose.

The Legislature finds that a statewide purpose is served by this part in that it enables counties to carry out more effectively the counties' statutorily defined roles as political and legal subdivisions of the state by improving the counties' revenue raising

capacities.

Enacted by Chapter 228, 1997 General Session

59-12-1102. Base -- Rate -- Imposition of tax -- Distribution of revenue -- Administration -- Administrative charge -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) (i) Subject to Subsections (2) through (6), and in addition to any other tax authorized by this chapter, a county may impose by ordinance a county option sales and use tax of .25% upon the transactions described in Subsection 59-12-103(1).

(ii) Notwithstanding Subsection (1)(a)(i), a county may not impose a tax under this section on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) The county option sales and use tax under this section shall be imposed:

(i) upon transactions that are located within the county, including transactions that are located within municipalities in the county; and

(ii) except as provided in Subsection (1)(d) or (5), beginning on the first day of January:

(A) of the next calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted on or before May 25; or

(B) of the second calendar year after adoption of the ordinance imposing the tax if the ordinance is adopted after May 25.

(d) Notwithstanding Subsection (1)(c)(ii), the county option sales and use tax under this section shall be imposed:

(i) beginning January 1, 1998, if an ordinance adopting the tax imposed on or before September 4, 1997; or

(ii) beginning January 1, 1999, if an ordinance adopting the tax is imposed during 1997 but after September 4, 1997.

(2) (a) Before imposing a county option sales and use tax under Subsection (1), a county shall hold two public hearings on separate days in geographically diverse locations in the county.

(b) (i) At least one of the hearings required by Subsection (2)(a) shall have a starting time of no earlier than 6 p.m.

(ii) The earlier of the hearings required by Subsection (2)(a) shall be no less than seven days after the day the first advertisement required by Subsection (2)(c) is published.

(c) (i) Before holding the public hearings required by Subsection (2)(a), the county shall advertise:

(A) its intent to adopt a county option sales and use tax;

(B) the date, time, and location of each public hearing; and

(C) a statement that the purpose of each public hearing is to obtain public comments regarding the proposed tax.

(ii) The advertisement shall be published:

(A) in a newspaper of general circulation in the county once each week for the two weeks preceding the earlier of the two public hearings; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, for two weeks preceding the earlier of the two public hearings.

(iii) The advertisement described in Subsection (2)(c)(ii)(A) shall be no less than 1/8 page in size, and the type used shall be no smaller than 18 point and surrounded by a 1/4-inch border.

(iv) The advertisement described in Subsection (2)(c)(ii)(A) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(v) In accordance with Subsection (2)(c)(ii)(A), whenever possible:

(A) the advertisement shall appear in a newspaper that is published at least five days a week, unless the only newspaper in the county is published less than five days a week; and

(B) the newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter.

(d) The adoption of an ordinance imposing a county option sales and use tax is subject to a local referendum election and shall be conducted as provided in Title 20A, Chapter 7, Part 6, Local Referenda - Procedures.

(3) (a) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is less than 75% of the state population, the tax levied under Subsection (1) shall be distributed to the county in which the tax was collected.

(b) Subject to Subsection (5), if the aggregate population of the counties imposing a county option sales and use tax under Subsection (1) is greater than or equal to 75% of the state population:

(i) 50% of the tax collected under Subsection (1) in each county shall be distributed to the county in which the tax was collected; and

(ii) except as provided in Subsection (3)(c), 50% of the tax collected under Subsection (1) in each county shall be distributed proportionately among all counties imposing the tax, based on the total population of each county.

(c) Except as provided in Subsection (5), the amount to be distributed annually to a county under Subsection (3)(b)(ii), when combined with the amount distributed to the county under Subsection (3)(b)(i), does not equal at least $75,000, then:

(i) the amount to be distributed annually to that county under Subsection (3)(b)(ii) shall be increased so that, when combined with the amount distributed to the county under Subsection (3)(b)(i), the amount distributed annually to the county is $75,000; and

(ii) the amount to be distributed annually to all other counties under Subsection (3)(b)(ii) shall be reduced proportionately to offset the additional amount distributed under Subsection (3)(c)(i).

(d) The commission shall establish rules to implement the distribution of the tax under Subsections (3)(a), (b), and (c).

(4) (a) Except as provided in Subsection (4)(b) or (c), a tax authorized under

this part shall be administered, collected, and enforced in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to Subsections 59-12-205(2) through (6).

(c) (i) Subject to Subsection (4)(c)(ii), the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(ii) Notwithstanding Section 59-1-306, the administrative charge described in Subsection (4)(c)(i) shall be calculated by taking a percentage described in Section 59-1-306 of the distribution amounts resulting after:

(A) the applicable distribution calculations under Subsection (3) have been made; and

(B) the commission retains the amount required by Subsection (5).

(5) (a) Beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (5).

(b) For a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that county by the total sales and use tax collected under this part for that month within the boundaries of all of the counties that impose a tax under this part.

(c) For a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:

(i) the percentage the commission determines for the month under Subsection (5)(b) for the county; and

(ii) $6,354.

(d) The commission shall deposit an amount the commission retains in accordance with this Subsection (5) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.

(e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

(6) (a) For purposes of this Subsection (6):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (6)(c) or (d), if, on or after July 1, 2004, a county enacts or repeals a tax under this part:

(A) (I) the enactment shall take effect as provided in Subsection (1)(c); or

(II) the repeal shall take effect on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(b)(ii) from the county.

(ii) The notice described in Subsection (6)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax under this part;
(B) the statutory authority for the tax described in Subsection (6)(b)(ii)(A);
(C) the effective date of the tax described in Subsection (6)(b)(ii)(A); and
(D) if the county enacts the tax described in Subsection (6)(b)(ii)(A), the rate of the tax.
(c) (i) The enactment of a tax takes effect on the first day of the first billing period:
(A) that begins on or after the effective date of the enactment of the tax; and
(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Subsection (1).
(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under Subsection (1).
(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(b)(i) takes effect:
(A) on the first day of a calendar quarter; and
(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(b)(i).
(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
(e) (i) Except as provided in Subsection (6)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:
(A) on the first day of a calendar quarter; and
(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6)(e)(ii) from the county that annexes the annexing area.
(ii) The notice described in Subsection (6)(e)(i)(B) shall state:
(A) that the annexation described in Subsection (6)(e)(i) will result in an enactment or repeal of a tax under this part for the annexing area;
(B) the statutory authority for the tax described in Subsection (6)(e)(ii)(A);
(C) the effective date of the tax described in Subsection (6)(e)(ii)(A); and
(D) the rate of the tax described in Subsection (6)(e)(ii)(A).
(f) (i) The enactment of a tax takes effect on the first day of the first billing period:
(A) that begins on or after the effective date of the enactment of the tax; and
(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Subsection (1).
(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under Subsection (1).
(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (6)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (6)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Amended by Chapter 212, 2012 General Session
Amended by Chapter 254, 2012 General Session

59-12-1104. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-1105. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days

after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

59-12-1106. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:
(A) in the taxability matrix the commission provides in accordance with the agreement; and
(B) with respect to a term:
(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition; or
(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
(i) incorrect data provided by the commission:
(A) on a tax rate;
(B) on a boundary; or
(C) on a taxing jurisdiction; or
(ii) an erroneous classification by the commission:
(A) in the taxability matrix the commission provides in accordance with the agreement; and
(B) with respect to a term:
(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, and enforcement of tax -- Administrative charge -- Deposits.

(1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.
(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.
(2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (1) shall take effect on the first day of a calendar quarter.
(b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall take effect on the first day of the first billing period:
(A) that begins after the effective date of the tax rate increase; and
(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (1).
(ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:
(A) that began before the effective date of the repeal of the tax or the tax rate

decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; or

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.

(4) (a) (i) The tax authorized under this section shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; and

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to Subsections 59-12-103(4) through (12) or Section 59-12-107.1 or 59-12-123.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(c) Except as provided under Subsection (4)(b), all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

Amended by Chapter 121, 2012 General Session

59-12-1202. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-1203. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the

commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

59-12-1204. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;

(Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition; or

(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;

(Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

59-12-1301. Title.

This part is known as the "Town Option Sales and Use Tax Act."

Enacted by Chapter 243, 1998 General Session

59-12-1302. Imposition of tax -- Base -- Rate -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) Beginning on or after January 1, 1998, the governing body of a town may impose a tax as provided in this part in an amount that does not exceed 1%.

(2) A town may impose a tax as provided in this part if the town imposed a license fee or tax on businesses based on gross receipts under Section 10-1-203 on or before January 1, 1996.

(3) A town imposing a tax under this section shall:

(a) except as provided in Subsection (4), impose the tax on the transactions described in Subsection 59-12-103(1) located within the town; and

(b) provide an effective date for the tax as provided in Subsection (5).

(4) (a) Notwithstanding Subsection (3)(a), a town may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (4)(c), amounts paid or charged for food and food ingredients.

(b) For purposes of this Subsection (4), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(c) A town imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the town will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in

Subsection (5)(b)(ii)(A), the rate of the tax.

(c) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(b)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(b)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the town that annexes the annexing area.

(ii) The notice described in Subsection (5)(e)(i)(B) shall state:

(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and

(D) if the town enacts the tax or changes the rate of the tax described in Subsection (5)(e)(ii)(A), the rate of the tax.

(f) (i) The enactment of a tax or a tax rate increase takes effect on the first day of the first billing period:

(A) that begins on or after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (5)(e)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) The commission shall:

(a) distribute the revenues generated by the tax under this section to the town imposing the tax; and

(b) except as provided in Subsection (8), administer, collect, and enforce the tax authorized under this section in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(7) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(8) Notwithstanding Subsection (6)(b), a tax under this section is not subject to Subsections 59-12-205(2) through (6).

Amended by Chapter 254, 2012 General Session

59-12-1304. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-1305. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

59-12-1306. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service

provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;

(Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition; or

(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;

(Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

59-12-1401. Purpose statement -- Definitions -- Scope of part.

(1) The purpose of the tax imposed by this part is the same for cities and towns as is stated in Section 59-12-701 for counties.

(2) The definitions of Section 59-12-702 are incorporated into this part.

(3) This part applies only to a city or town that is located within a county of the

second, third, fourth, fifth, or sixth class as designated in Section 17-50-501.

Amended by Chapter 317, 2004 General Session

59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Expenditure of revenues -- Enactment or repeal of tax -- Effective date -- Notice requirements.

(1) (a) Subject to the other provisions of this section, a city or town legislative body subject to this part may submit an opinion question to the residents of that city or town, by majority vote of all members of the legislative body, so that each resident of the city or town has an opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the city or town, to:

(i) fund cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations in that city or town; or

(ii) provide funding for a botanical organization, cultural organization, or zoological organization to pay for use of a bus or facility rental if that use of the bus or facility rental is in furtherance of the botanical organization's, cultural organization's, or zoological organization's primary purpose.

(b) The opinion question required by this section shall state:

"Shall (insert the name of the city or town), Utah, be authorized to impose a .1% sales and use tax for (list the purposes for which the revenues collected from the sales and use tax shall be expended)?"

(c) Notwithstanding Subsection (1)(a), a city or town legislative body may not impose a tax under this section:

(i) if the county in which the city or town is located imposes a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

(ii) on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iii) except as provided in Subsection (1)(e), on amounts paid or charged for food and food ingredients.

(d) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(e) A city or town legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(f) Except as provided in Subsection (6), the election shall be held at a regular general election or a municipal general election, as those terms are defined in Section 20A-1-102, and shall follow the procedures outlined in Title 11, Chapter 14, Local Government Bonding Act.

(2) If the city or town legislative body determines that a majority of the city's or town's registered voters voting on the imposition of the tax have voted in favor of the

imposition of the tax as prescribed in Subsection (1), the city or town legislative body may impose the tax by a majority vote of all members of the legislative body.

(3) Subject to Section 59-12-1403, revenues collected from a tax imposed under Subsection (2) shall be expended:

(a) to finance cultural facilities, recreational facilities, and zoological facilities within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for cultural facilities, recreational facilities, or zoological facilities;

(b) to finance ongoing operating expenses of:

(i) recreational facilities described in Subsection (3)(a) within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for recreational facilities; or

(ii) botanical organizations, cultural organizations, and zoological organizations within the city or town or within the geographic area of entities that are parties to an interlocal agreement, to which the city or town is a party, providing for the support of botanical organizations, cultural organizations, or zoological organizations; and

(c) as stated in the opinion question described in Subsection (1).

(4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be:

(i) administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) (A) levied for a period of eight years; and

(B) may be reauthorized at the end of the eight-year period in accordance with this section.

(b) (i) If a tax under this part is imposed for the first time on or after July 1, 2011, the tax shall be levied for a period of 10 years.

(ii) If a tax under this part is reauthorized in accordance with Subsection (4)(a) on or after July 1, 2011, the tax shall be reauthorized for a ten-year period.

(c) A tax under this section is not subject to Subsections 59-12-205(2) through (6).

(5) (a) For purposes of this Subsection (5):

(i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a city or town.

(b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(b)(ii) from the city or town.

(ii) The notice described in Subsection (5)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax under this part;

(B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
(C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
(D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the tax.
(c) (i) The enactment of a tax takes effect on the first day of the first billing period:
(A) that begins on or after the effective date of the enactment of the tax; and
(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.
(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under this section.
(d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:
(A) on the first day of a calendar quarter; and
(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(b)(i).
(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
(e) (i) Except as provided in Subsection (5)(f) or (g), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:
(A) on the first day of a calendar quarter; and
(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.
(ii) The notice described in Subsection (5)(e)(i)(B) shall state:
(A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or repeal a tax under this part for the annexing area;
(B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);
(C) the effective date of the tax described in Subsection (5)(e)(ii)(A); and
(D) the rate of the tax described in Subsection (5)(e)(ii)(A).
(f) (i) The enactment of a tax takes effect on the first day of the first billing period:
(A) that begins on or after the effective date of the enactment of the tax; and
(B) if the billing period for the transaction begins before the effective date of the enactment of the tax under this section.
(ii) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under this section.
(g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:
(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment or repeal under Subsection (5)(e)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Subsection (1), the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the residents of the county under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under that part.

(ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

(A) a 12-month period;

(B) the next regular primary election; or

(C) the next regular general election.

(iii) Within 30 days of the date of the canvass of the election at which the opinion question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the city or town legislative body described in Subsection (6)(a) written results of the opinion question submitted by the county legislative body under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

(A) (I) the city or town legislative body may not impose a tax under this part because a majority of the county's registered voters voted in favor of the county

imposing the tax and the county legislative body by a majority vote approved the imposition of the tax; or

(II) for at least 12 months from the date the written results are submitted to the city or town legislative body, the city or town legislative body may not submit to the county legislative body a written notice of the intent to submit an opinion question under this part because a majority of the county's registered voters voted against the county imposing the tax and the majority of the registered voters who are residents of the city or town described in Subsection (6)(a) voted against the imposition of the county tax; or

(B) the city or town legislative body may submit the opinion question to the residents of the city or town in accordance with this part because although a majority of the county's registered voters voted against the county imposing the tax, the majority of the registered voters who are residents of the city or town voted for the imposition of the county tax.

(c) Notwithstanding Subsection (6)(b), at any time a county legislative body may provide a city or town legislative body described in Subsection (6)(a) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, which permits the city or town legislative body to submit under Subsection (1) an opinion question to the city's or town's residents.

Amended by Chapter 254, 2012 General Session

59-12-1403. Distribution of revenues -- Administrative costs.

(1) (a) The city or town legislative body shall by ordinance provide for the distribution of the entire amount of the revenues collected from the tax imposed by this part:

(i) in accordance with this section; and

(ii) as stated in the opinion question described in Subsection 59-12-1402(1).

(b) A city or town may participate in an interlocal agreement provided for under Section 59-12-704 and distribute the revenues collected from the tax imposed by this part to participants in the interlocal agreement.

(c) Subject to Subsection (1)(a), revenues collected from the tax shall be used for one or more organizations or facilities defined in Section 59-12-702.

(2) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

Amended by Chapter 309, 2011 General Session
Amended by Chapter 416, 2011 General Session

59-12-1405. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax

rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-1406. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

59-12-1407. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a

penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;

(Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition; or

(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;
(B) on a boundary; or
(C) on a taxing jurisdiction; or
(ii) an erroneous classification by the commission:
(A) in the taxability matrix the commission provides in accordance with the agreement; and
(B) with respect to a term:
(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

59-12-1801. Title.
This part is known as the "Additional State Sales and Use Tax Act."

Enacted by Chapter 288, 2007 General Session

59-12-1802. State sales and use tax -- Base -- Rate -- Revenues deposited into General Fund.
(1) If a county does not impose a tax under Part 11, County Option Sales and Use Tax, a tax shall be imposed within the county under this section by the state:
(a) on the transactions described in Subsection 59-12-103(1);
(b) at a rate of .25%; and
(c) beginning on January 1, 2008, and ending on the day on which the county imposes a tax under Part 11, County Option Sales and Use Tax.
(2) Notwithstanding Subsection (1), a tax under this section may not be imposed on the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104.
(3) For purposes of Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
(4) Revenues collected from the sales and use tax imposed by this section, after subtracting amounts a seller retains in accordance with Section 59-12-108, shall be deposited into the General Fund.

Amended by Chapter 384, 2008 General Session

59-12-1803. Enactment or repeal of tax -- Effective date -- Administration, collection, and enforcement of tax.
(1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax imposed under this part shall take effect on the first day of a calendar quarter.
(2) (a) The enactment of a tax takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax if the billing

period for the transaction begins before the effective date of the tax under this part.

(b) The repeal of a tax applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax imposed under this part.

(3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax under this part takes effect:

(i) on the first day of a calendar quarter; and

(ii) beginning 60 days after the effective date of the enactment or repeal of the tax under this part.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(4) A tax imposed by this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; and

(b) Chapter 1, General Taxation Policies.

Amended by Chapter 254, 2012 General Session

59-12-1804. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-1805. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a

certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 384, 2008 General Session

59-12-1806. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;
(ii) intentional; or
(iii) willful.
(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
(a) the purchaser's seller or certified service provider relies on:
(i) incorrect data provided by the commission:
(A) on a tax rate;
(B) on a boundary; or
(C) on a taxing jurisdiction; or
(ii) an erroneous classification by the commission:
(A) in the taxability matrix the commission provides in accordance with the agreement; and
(B) with respect to a term:
(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition; or
(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
(i) incorrect data provided by the commission:
(A) on a tax rate;
(B) on a boundary; or
(C) on a taxing jurisdiction; or
(ii) an erroneous classification by the commission:
(A) in the taxability matrix the commission provides in accordance with the agreement; and
(B) with respect to a term:
(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition.

Enacted by Chapter 384, 2008 General Session

59-12-2001. Title.
This part is known as the "Supplemental State Sales and Use Tax Act."

Enacted by Chapter 286, 2008 General Session

59-12-2002. Definitions.
As used in this part, "public transit district" means a public transit district

organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

Enacted by Chapter 286, 2008 General Session

59-12-2003. Imposition -- Base -- Rate -- Revenues distributed to certain public transit districts.

(1) Subject to the other provisions of this section and except as provided in Subsection (2) or (4), beginning on July 1, 2008, the state shall impose a tax under this part on the transactions described in Subsection 59-12-103(1) within a city, town, or the unincorporated area of a county of the first or second class if, on January 1, 2008, there is a public transit district within any portion of that county of the first or second class.

(2) The state may not impose a tax under this part within a county of the first or second class if within all of the cities, towns, and the unincorporated area of the county of the first or second class there is imposed a sales and use tax of:

(a) .30% under Section 59-12-2213;

(b) .30% under Section 59-12-2215; or

(c) .30% under Section 59-12-2216.

(3) (a) Subject to Subsection (3)(b), if the state imposes a tax under this part, the tax rate imposed within a city, town, or the unincorporated area of a county of the first or second class is a percentage equal to the difference between:

(i) .30%; and

(ii) (A) for a city within the county of the first or second class, the highest tax rate imposed within that city under:

(I) Section 59-12-2213;

(II) Section 59-12-2215; or

(III) Section 59-12-2216;

(B) for a town within the county of the first or second class, the highest tax rate imposed within that town under:

(I) Section 59-12-2213;

(II) Section 59-12-2215; or

(III) Section 59-12-2216; or

(C) for the unincorporated area of the county of the first or second class, the highest tax rate imposed within that unincorporated area under:

(I) Section 59-12-2213;

(II) Section 59-12-2215; or

(III) Section 59-12-2216.

(b) For purposes of Subsection (3)(a), if for a city, town, or the unincorporated area of a county of the first or second class, the highest tax rate imposed under Section 59-12-2213, 59-12-2215, or 59-12-2216 within that city, town, or unincorporated area of the county of the first or second class is .30%, the state may not impose a tax under this part within that city, town, or unincorporated area.

(4) (a) The state may not impose a tax under this part on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or

(ii) except as provided in Subsection (4)(b), amounts paid or charged for food and food ingredients.

(b) The state shall impose a tax under this part on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and ingredients and tangible personal property other than food and food ingredients.

(5) For purposes of Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(6) The commission shall distribute the revenues the state collects from the sales and use tax under this part, after subtracting amounts a seller retains in accordance with Section 59-12-108, to the public transit districts within the cities, towns, and unincorporated areas:

(a) within which the state imposes a tax under this part; and

(b) in proportion to the revenues collected from the sales and use tax under this part within each city, town, and unincorporated area within which the state imposes a tax under this part.

Amended by Chapter 263, 2010 General Session

59-12-2004. Enactment or repeal of tax -- Effective date -- Administration, collection, and enforcement of tax -- Administrative charge.

(1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax imposed under this part shall take effect on the first day of a calendar quarter.

(2) (a) The enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase under this part.

(b) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under this part.

(3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax under this part takes effect:

(i) on the first day of a calendar quarter; and

(ii) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under this part.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(4) The commission shall administer, collect, and enforce a tax under this part in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection;

(b) Chapter 1, General Taxation Policies; and

(c) Section 59-12-210.1.

(5) The commission shall retain and deposit an administrative charge in

accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

Amended by Chapter 254, 2012 General Session

59-12-2005. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-2006. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service

provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 286, 2008 General Session

59-12-2007. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition; or
(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
(i) incorrect data provided by the commission:
(A) on a tax rate;
(B) on a boundary; or
(C) on a taxing jurisdiction; or
(ii) an erroneous classification by the commission:
(A) in the taxability matrix the commission provides in accordance with the agreement; and
(B) with respect to a term:
(I) in the library of definitions; and
(II) that is:
(Aa) listed as taxable or exempt;
(Bb) included in or excluded from "sales price"; or
(Cc) included in or excluded from a definition.

Enacted by Chapter 286, 2008 General Session

59-12-2101. Title.
This part is known as the "City or Town Option Sales and Use Tax Act."

Enacted by Chapter 323, 2008 General Session

59-12-2102. Definitions.
As used in this part:
(1) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.
(2) "Annexing area" means an area that is annexed into a city or town.

Enacted by Chapter 323, 2008 General Session

59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected from the tax -- Administration, collection, and enforcement of tax by commission -- Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.
(1) (a) Subject to the other provisions of this section and except as provided in Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or town would have received a tax revenue distribution of less than .75% of the taxable sales within the boundaries of the city or town but for Subsection

59-12-205(4)(a), the city or town legislative body may impose a sales and use tax of up to .20% on the transactions:

(i) described in Subsection 59-12-103(1); and

(ii) within the city or town.

(b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall expend the revenues collected from the tax for the same purposes for which the city or town may expend the city's or town's general fund revenues.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(2) (a) A city or town legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food ingredients.

(b) A city or town legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(3) (a) Beginning on January 1, 2009 and ending on June 30, 2016, to impose a tax under this part, a city or town legislative body shall obtain approval from a majority of the members of the city or town legislative body.

(b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or town legislative body may not impose a tax under this part beginning on or after July 1, 2016.

(c) (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before June 30, 2016, the city or town legislative body obtains approval from a majority vote of the members of the city or town legislative body to continue to impose the tax.

(ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of the members of the city or town legislative body to continue to impose a tax under this part on or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.

(4) The commission shall transmit revenues collected within a city or town from a tax under this part:

(a) to the city or town legislative body;

(b) monthly; and

(c) by electronic funds transfer.

(5) (a) Except as provided in Subsection (5)(b), the commission shall administer, collect, and enforce a tax under this part in accordance with:

(i) the same procedures used to administer, collect, and enforce the tax under:

(A) Part 1, Tax Collection; or

(B) Part 2, Local Sales and Use Tax Act; and

(ii) Chapter 1, General Taxation Policies.

(b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

(6) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(a)(i) from the city or town.

(ii) The notice described in Subsection (7)(a)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax or change the rate of the tax under this part;

(B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(a)(ii)(A), the rate of the tax.

(b) (i) If the billing period for a transaction begins before the enactment of the tax or the tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(a)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (7)(a)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

(ii) The notice described in Subsection (7)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (7)(d)(i)(B) will result in the enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.

(f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(d)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change under Subsection (7)(d)(i).

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale".

Amended by Chapter 254, 2012 General Session
Amended by Chapter 352, 2012 General Session

59-12-2104. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-2105. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's

reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 323, 2008 General Session

59-12-2106. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty

under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;

(Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition; or

(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;

(Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition.

Enacted by Chapter 323, 2008 General Session

59-12-2201. Title.

This part is known as the "Local Option Sales and Use Taxes for Transportation Act."

Enacted by Chapter 263, 2010 General Session

59-12-2202. Definitions.

As used in this part:

(1) "Airline" is as defined in Section 59-2-102.

(2) "Airport facility" is as defined in Section 59-12-602.

(3) "Airport of regional significance" means an airport identified by the Federal Aviation Administration in the most current National Plan of Integrated Airport Systems or an update to the National Plan of Integrated Airport Systems.

(4) "Annexation" means an annexation to:

(a) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

(b) a city or town under Title 10, Chapter 2, Part 4, Annexation.

(5) "Annexing area" means an area that is annexed into a county, city, or town.

(6) "Council of governments" is as defined in Section 72-2-117.5.

(7) "Fixed guideway" is as defined in Section 59-12-102.

(8) "Major collector highway" is as defined in Section 72-4-102.5.

(9) "Metropolitan planning organization" is as defined in Section 72-1-208.5.

(10) "Minor arterial highway" is as defined in Section 72-4-102.5.

(11) "Minor collector road" is as defined in Section 72-4-102.5.

(12) "Principal arterial highway" is as defined in Section 72-4-102.5.

(13) "Regionally significant transportation facility" means:

(a) in a county of the first or second class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a fixed guideway that:

(A) extends across two or more cities or unincorporated areas; or

(B) is an extension to an existing fixed guideway; or

(iv) an airport of regional significance; or

(b) in a county of the third, fourth, fifth, or sixth class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a major collector highway;

(iv) a minor collector road; or

(v) an airport of regional significance.

(14) "State highway" means a highway designated as a state highway under Title 72, Chapter 4, Designation of State Highways Act.

(15) (a) Subject to Subsection (15)(b), "system for public transit" has the same meaning as "public transit" as defined in Section 17B-2a-802.

(b) "System for public transit" includes:

(i) the following costs related to public transit:

(A) maintenance costs; or

(B) operating costs;

(ii) a fixed guideway;

(iii) a park and ride facility;
(iv) a passenger station or passenger terminal;
(v) a right-of-way for public transit; or
(vi) the following that serve a public transit facility:
(A) a maintenance facility;
(B) a platform;
(C) a repair facility;
(D) a roadway;
(E) a storage facility;
(F) a utility line; or
(G) a facility or item similar to Subsections (15)(b)(vi)(A) through (F).

Enacted by Chapter 263, 2010 General Session

59-12-2203. Authority to impose a sales and use tax under this part.

(1) As provided in this Subsection (1), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2213 in accordance with Section 59-12-2213; or

(b) a city or town may impose the sales and use tax authorized by Section 59-12-2215 in accordance with Section 59-12-2215.

(2) As provided in this Subsection (2), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2214 in accordance with Section 59-12-2214; or

(b) a county may impose the sales and use tax authorized by Section 59-12-2216 in accordance with Section 59-12-2216.

(3) As provided in this Subsection (3), one of the following sales and use taxes may be imposed within the boundaries of a local taxing jurisdiction:

(a) a county may impose the sales and use tax authorized by Section 59-12-2217 in accordance with Section 59-12-2217; or

(b) a county, city, or town may impose the sales and use tax authorized by Section 59-12-2218 in accordance with Section 59-12-2218.

Enacted by Chapter 263, 2010 General Session

59-12-2204. Transactions that may not be subject to taxation under this part -- Exception for food and food ingredients sold as part of a bundled transaction.

(1) A county, city, or town may not impose a sales and use tax under this part on:

(a) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(b) except as provided in Subsection (2), amounts paid or charged for food and food ingredients.

(2) A county, city, or town imposing a sales and use tax under this part shall impose the sales and use tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

Enacted by Chapter 263, 2010 General Session

59-12-2205. Determination of the location of a transaction.

For purposes of this part, the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

Enacted by Chapter 263, 2010 General Session

59-12-2206. Administration, collection, and enforcement of a sales and use tax under this part -- Transmission of revenues monthly by electronic funds transfer -- Transfer of revenues to a public transit district.

(1) Except as provided in Subsection (2), the commission shall administer, collect, and enforce a sales and use tax imposed under this part.

(2) The commission shall administer, collect, and enforce a sales and use tax imposed under this part in accordance with:

(a) the same procedures used to administer, collect, and enforce a tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(3) A sales and use tax under this part is not subject to Subsections 59-12-205(2) through (6).

(4) Subject to Section 59-12-2207 and except as provided in Subsection (5) or another provision of this part, the state treasurer shall transmit revenues collected within a county, city, or town from a sales and use tax under this part to the county, city, or town legislative body monthly by electronic funds transfer.

(5) Subject to Section 59-12-2207, the state treasurer shall transfer revenues collected within a county, city, or town from a sales and use tax under this part directly to a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, if the county, city, or town legislative body:

(a) provides written notice to the state treasurer requesting the transfer; and

(b) designates the public transit district to which the county, city, or town legislative body requests the state treasurer to transfer the revenues.

Enacted by Chapter 263, 2010 General Session

59-12-2207. Administrative charge.

The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

Amended by Chapter 309, 2011 General Session

59-12-2208. Legislative body approval requirements -- Voter approval requirements.

(1) Subject to the other provisions of this section, before imposing a sales and use tax under this part, a county, city, or town legislative body shall:

(a) obtain approval to impose the sales and use tax from a majority of the members of the county, city, or town legislative body; and

(b) submit an opinion question to the county's, city's, or town's registered voters voting on the imposition of the sales and use tax so that each registered voter has the opportunity to express the registered voter's opinion on whether a sales and use tax should be imposed under this section.

(2) The opinion question required by this section shall state:

"Shall (insert the name of the county, city, or town), Utah, be authorized to impose a (insert the tax rate of the sales and use tax) sales and use tax for (list the purposes for which the revenues collected from the sales and use tax shall be expended)?"

(3) (a) Subject to Subsection (3)(b), the election required by this section shall be held:

(i) at a regular general election conducted in accordance with the procedures and requirements of Title 20A, Election Code, governing regular general elections; or

(ii) at a municipal general election conducted in accordance with the procedures and requirements of Section 20A-1-202.

(b) (i) Subject to Subsection (3)(b)(ii), the county clerk of the county in which the opinion question required by this section will be submitted to registered voters shall, no later than 15 days before the date of the election:

(A) publish a notice:

(I) once in a newspaper published in that county; and

(II) as required in Section 45-1-101; or

(B) (I) cause a copy of the notice to be posted in a conspicuous place most likely to give notice of the election to the registered voters voting on the imposition of the sales and use tax; and

(II) prepare an affidavit of that posting, showing a copy of the notice and the places where the notice was posted.

(ii) The notice under Subsection (3)(b)(i) shall:

(A) state that an opinion question will be submitted to the county's, city's, or town's registered voters voting on the imposition of a sales and use tax under this section so that each registered voter has the opportunity to express the registered voter's opinion on whether a sales and use tax should be imposed under this section; and

(B) list the purposes for which the revenues collected from the sales and use tax shall be expended.

(4) A county, city, or town that submits an opinion question to registered voters under this section is subject to Section 20A-11-1203.

(5) Subject to Section 59-12-2209, if a county, city, or town legislative body determines that a majority of the county's, city's, or town's registered voters voting on the imposition of a sales and use tax under this part have voted in favor of the imposition of the sales and use tax in accordance with this section, the county, city, or town legislative body shall impose the sales and use tax.

(6) If, after imposing a sales and use tax under this part, a county, city, or town legislative body seeks to impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in the opinion question described in Subsection (2) or repeals the tax rate stated in the opinion question described in Subsection (2), the county, city, or town legislative body shall:

(a) obtain approval from a majority of the members of the county, city, or town legislative body to impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in the opinion question described in Subsection (2) or repeals the tax rate stated in the opinion question described in Subsection (2); and

(b) in accordance with the procedures and requirements of this section, submit an opinion question to the county's, city's, or town's registered voters voting on the tax rate so that each registered voter has the opportunity to express the registered voter's opinion on whether to impose a tax rate for the sales and use tax that exceeds or is less than the tax rate stated in the opinion question described in Subsection (2) or repeal the tax rate stated in the opinion question described in Subsection (2).

Enacted by Chapter 263, 2010 General Session

59-12-2209. Enactment, repeal, or change in the rate of a sales and use tax under this part -- Annexation -- Notice.

(1) Except as provided in Subsection (3) or (4), if a county, city, or town enacts or repeals a sales and use tax or changes the rate of a sales and use tax under this part, the enactment, repeal, or change shall take effect:

(a) on the first day of a calendar quarter; and

(b) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2) from the county, city, or town.

(2) The notice described in Subsection (1)(b) shall state:

(a) that the county, city, or town will enact, repeal, or change the rate of a sales and use tax under this part;

(b) the statutory authority for the sales and use tax described in Subsection (2)(a);

(c) the date the enactment, repeal, or change will take effect; and

(d) if the county, city, or town enacts the sales and use tax or changes the rate of the sales and use tax described in Subsection (2)(a), the rate of the sales and use tax.

(3) (a) If the billing period for a transaction begins before the effective date of the enactment of a sales and use tax or a tax rate increase under this part, the enactment of the sales and use tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the sales and use tax or the tax rate increase.

(b) If the billing period for a transaction begins before the effective date of the repeal of a sales and use tax or a tax rate decrease under this part, the repeal of the sales and use tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the sales and use tax or the tax rate decrease.

(4) (a) If a sales and use tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a sales and use tax described in Subsection (1) takes effect:

(i) on the first day of a calendar quarter; and

(ii) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the sales and use tax under Subsection (1).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(5) Except as provided in Subsection (7) or (8), if an annexation will result in the enactment, repeal, or change in the rate of a sales and use tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(a) on the first day of a calendar quarter; and

(b) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (6) from the county, city, or town that annexes the annexing area.

(6) The notice described in Subsection (5) shall state:

(a) that the annexation described in Subsection (5) will result in an enactment, repeal, or change in the rate of a sales and use tax under this part for the annexing area;

(b) the statutory authority for the sales and use tax described in Subsection (6)(a);

(c) the date the enactment, repeal, or change will take effect; and

(d) if the annexation will result in the enactment or change in the rate of the sales and use tax described in Subsection (6)(a), the rate of the sales and use tax.

(7) (a) If the billing period for a transaction begins before the effective date of the enactment of a sales and use tax or a tax rate increase under this part, the enactment of the sales and use tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the sales and use tax or the tax rate increase.

(b) If the billing period for a transaction begins before the effective date of the repeal of a sales and use tax or a tax rate decrease under this part, the repeal of the sales and use tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the sales and use tax or the tax rate decrease.

(8) (a) If a sales and use tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a sales and use tax described in Subsection (6) takes effect:

(i) on the first day of a calendar quarter; and

(ii) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the sales and use tax under Subsection (6).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Amended by Chapter 254, 2012 General Session

59-12-2210. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a sales and use tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the sales and use tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or

(2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Enacted by Chapter 263, 2010 General Session

59-12-2211. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a sales and use tax required under this part if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a sales and use tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of sales and use tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller

receives the notice.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 263, 2010 General Session

59-12-2212. Purchaser relief from liability.

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a sales and use tax due under this part or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement; or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a sales and use tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a sales and use tax due under this part or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;

(Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition; or

(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:

(i) incorrect data provided by the commission;

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement; and

(B) with respect to a term:

(I) in the library of definitions; and

(II) that is:

(Aa) listed as taxable or exempt;

(Bb) included in or excluded from "sales price"; or

(Cc) included in or excluded from a definition.

Enacted by Chapter 263, 2010 General Session

59-12-2212.1. Transition provisions.

Notwithstanding any other provision of this part, a county, city, or town legislative body is not required to submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 and is not required to provide notice to the commission in accordance with Section 59-12-2209 if:

(1) (a) on June 30, 2010, a county, city, or town imposes a sales and use tax under Section 59-12-501 that is repealed by Laws of Utah 2010, Chapter 263;

(b) on July 1, 2010, the authority for the county, city, or town to impose the sales and use tax described in Subsection (1)(a) is transferred to Section 59-12-2213; and

(c) the rate of the sales and use tax described under Subsection (1)(a) and the rate of the sales and use tax the county, city, or town imposes under Section 59-12-2213 are the same;

(2) (a) on June 30, 2010, a county, city, or town imposes a sales and use tax under Section 59-12-502 that is repealed by Laws of Utah 2010, Chapter 263;

(b) on July 1, 2010, the authority for the county, city, or town to impose the sales and use tax described in Subsection (2)(a) is transferred to Section 59-12-2214; and

(c) the rate of the sales and use tax described under Subsection (2)(a) and the rate of the sales and use tax the county, city, or town imposes under Section 59-12-2214 are the same;

(3) (a) on June 30, 2010, a city or town imposes a sales and use tax under Section 59-12-1001 that is repealed by Laws of Utah 2010, Chapter 263;

(b) on July 1, 2010, the authority for the city or town to impose the sales and use tax described in Subsection (3)(a) is transferred to Section 59-12-2215; and

(c) the rate of the sales and use tax described under Subsection (3)(a) and the rate of the sales and use tax the city or town imposes under Section 59-12-2215 are the same;

(4) (a) on June 30, 2010, a county imposes a sales and use tax under Section 59-12-1503 that is repealed by Laws of Utah 2010, Chapter 263;

(b) on July 1, 2010, the authority for the county to impose the sales and use tax described in Subsection (4)(a) is transferred to Section 59-12-2216; and

(c) the rate of the sales and use tax described under Subsection (4)(a) and the rate of the sales and use tax the county imposes under Section 59-12-2216 are the same;

(5) (a) on June 30, 2010, a county imposes a sales and use tax under Section 59-12-1703 that is repealed by Laws of Utah 2010, Chapter 263;

(b) on July 1, 2010, the authority for the county to impose the sales and use tax described in Subsection (5)(a) is transferred to Section 59-12-2217; and

(c) the rate of the sales and use tax described under Subsection (5)(a) and the rate of the sales and use tax the county imposes under Section 59-12-2217 are the same; and

(6) (a) on June 30, 2010, a county, city, or town imposes a sales and use tax under Section 59-12-1903 that is repealed by Laws of Utah 2010, Chapter 263;

(b) on July 1, 2010, the authority for the county, city, or town to impose the sales and use tax described in Subsection (6)(a) is transferred to Section 59-12-2218; and

(c) the rate of the sales and use tax described under Subsection (6)(a) and the rate of the sales and use tax the county, city, or town imposes under Section 59-12-2218 are the same.

Enacted by Chapter 263, 2010 General Session

59-12-2213. County, city, or town option sales and use tax to fund a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part, a county, city, or town may impose a sales and use tax under this section of up to:

(a) for a county, city, or town other than a county, city, or town described in Subsection (1)(b), .25% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town to fund a system for public transit; or

(b) for a county, city, or town within which a tax is not imposed under Section 59-12-2216, .30% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town, to fund a system for public transit.

(2) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not required to submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section if the county, city, or town imposes the sales and use tax under Section

59-12-2216 on or before July 1, 2011.

Amended by Chapter 223, 2011 General Session

59-12-2214. County, city, or town option sales and use tax to fund a system for public transit, an airport facility, or to be deposited into the County of the First Class State Highway Projects Fund -- Base -- Rate -- Voter approval exception.

(1) Subject to the other provisions of this part, a county, city, or town may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town.

(2) Subject to Subsection (3), a county, city, or town that imposes a sales and use tax under this section shall expend the revenues collected from the sales and use tax:

(a) to fund a system for public transit;

(b) to fund a project or service related to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:

(i) for a county that imposes the sales and use tax, if the airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town that imposes the sales and use tax, if:

(A) that city or town is located within a county of the second class;

(B) that city or town owns or operates the airport facility; and

(C) an airline is headquartered in that city or town; or

(c) for a combination of Subsections (2)(a) and (b).

(3) A county of the first class that imposes a sales and use tax under this section shall expend the revenues collected from the sales and use tax as follows:

(a) 80% of the revenues collected from the sales and use tax shall be expended to fund a system for public transit; and

(b) 20% of the revenues collected from the sales and use shall be deposited into the County of the First Class State Highway Projects Fund created by Section 72-2-121.

(4) Notwithstanding Section 59-12-2208, a county, city, or town legislative body is not required to submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section if:

(a) the county, city, or town imposes the sales and use tax under this section on or after July 1, 2010, but on or before July 1, 2011;

(b) on July 1, 2010, the county, city, or town imposes a sales and use tax under:

(i) Section 59-12-2213; or

(ii) Section 59-12-2215; and

(c) the county, city, or town obtained voter approval to impose the sales and use tax under:

(i) Section 59-12-2213; or

(ii) Section 59-12-2215.

Enacted by Chapter 263, 2010 General Session

59-12-2215. City or town option sales and use tax for highways or to fund a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part, a city or town may impose a sales and use tax of up to .30% on the transactions described in Subsection 59-12-103(1) located within the city or town.

(2) A city or town imposing a sales and use tax under this section shall expend the revenues collected from the sales and use tax:

(a) for the construction and maintenance of highways under the jurisdiction of the city or town imposing the tax;

(b) to fund a system for public transit; or

(c) for a combination of Subsections (2)(a) and (b).

Enacted by Chapter 263, 2010 General Session

59-12-2216. County option sales and use tax for a fixed guideway, to fund a system for public transit, or for highways -- Base -- Rate -- Allocation and expenditure of revenues.

(1) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of up to .30% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(2) Subject to Subsection (3), before obtaining voter approval in accordance with Section 59-12-2208, a county legislative body shall adopt a resolution specifying the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund one or more of the following:

(a) a project or service relating to a fixed guideway for the portion of the project or service that is performed within the county;

(b) a project or service relating to a system for public transit, except for a fixed guideway, for the portion of the project or service that is performed within the county;

(c) the following relating to a state highway within the county:

(i) a project within the county if the project:

(A) begins on or after the day on which a county legislative body imposes a tax under this section; and

(B) involves an environmental study, an improvement, new construction, or a renovation;

(ii) debt service on a project described in Subsection (2)(c)(i); or

(iii) bond issuance costs related to a project described in Subsection (2)(c)(i); or

(d) a project, debt service, or bond issuance cost described in Subsection (2)(c) relating to a highway that is:

(i) a principal arterial highway or minor arterial highway;

(ii) included in a metropolitan planning organization's regional transportation plan; and

(iii) not a state highway.

(3) A county legislative body shall in the resolution described in Subsection (2) allocate 100% of the revenues the county will receive from the sales and use tax under this section for one or more of the purposes described in Subsection (2).

(4) Notwithstanding Section 59-12-2208, the opinion question required by Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this section.

(5) The revenues collected from a sales and use tax under this section shall be:

(a) allocated in accordance with the allocations specified in the resolution under Subsection (2); and

(b) expended as provided in this section.

(6) If a county legislative body allocates revenues collected from a sales and use tax under this section for a state highway project described in Subsection (2)(c)(i), before beginning the state highway project within the county, the county legislative body shall:

(a) obtain approval from the Transportation Commission to complete the project; and

(b) enter into an interlocal agreement established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

(7) If after a county legislative body imposes a sales and use tax under this section the county legislative body seeks to change an allocation specified in the resolution under Subsection (2), the county legislative body may change the allocation by:

(a) adopting a resolution in accordance with Subsection (2) specifying the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund one or more of the items described in Subsection (2);

(b) obtaining approval to change the allocation of the sales and use tax by a majority of all of the members of the county legislative body; and

(c) subject to Subsection (8):

(i) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and

(ii) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.

(8) Notwithstanding Section 59-12-2208, the opinion question required by Subsection (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with Subsection (7)(a) and approved by the county legislative body in accordance with Subsection (7)(b).

(9) Revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(c) shall be:

(a) deposited into the Highway Projects Within Counties Fund created by

Section 72-2-121.1; and

(b) expended as provided in Section 72-2-121.1.

(10) (a) Notwithstanding Section 59-12-2206 and subject to Subsection (10)(b), revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(d) shall be transferred to the Department of Transportation if the transfer of the revenues is required under an interlocal agreement:

(i) entered into on or before January 1, 2010; and

(ii) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(b) The Department of Transportation shall expend the revenues described in Subsection (10)(a) as provided in the interlocal agreement described in Subsection (10)(a).

Enacted by Chapter 263, 2010 General Session

59-12-2217. County option sales and use tax for transportation -- Base -- Rate -- Written prioritization process -- Approval by county legislative body.

(1) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of up to .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(2) Subject to Subsections (3) through (8) and Section 59-12-2207, the revenues collected from a sales and use tax under this section may only be expended for:

(a) a project or service:

(i) relating to a regionally significant transportation facility for the portion of the project or service that is performed within the county;

(ii) for new capacity or congestion mitigation if the project or service is performed within a county:

(A) of the first or second class; or

(B) if that county is part of an area metropolitan planning organization; and

(iii) that is on a priority list:

(A) created by the county's council of governments in accordance with Subsection (7); and

(B) approved by the county legislative body in accordance with Subsection (7);

(b) corridor preservation for a project or service described in Subsection (2)(a) as provided in Subsection (8); or

(c) debt service or bond issuance costs related to a project or service described in Subsection (2)(a)(i) or (ii).

(3) If a project or service described in Subsection (2) is for:

(a) a principal arterial highway or a minor arterial highway in a county of the first or second class or a collector road in a county of the second class, that project or service shall be part of the:

(i) county and municipal master plan; and

(ii) (A) statewide long-range plan; or

(B) regional transportation plan of the area metropolitan planning organization if

a metropolitan planning organization exists for the area; or

(b) a fixed guideway or an airport, that project or service shall be part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area.

(4) In a county of the first or second class, a regionally significant transportation facility project or service described in Subsection (2)(a)(i) shall have a funded year priority designation on a Statewide Transportation Improvement Program and Transportation Improvement Program if the project or service described in Subsection (2)(a)(i) is:

(a) a principal arterial highway;

(b) a minor arterial highway;

(c) a collector road in a county of the second class; or

(d) a major collector highway in a rural area.

(5) Of the revenues collected from a sales and use tax imposed under this section within a county of the first or second class, 25% or more shall be expended for the purpose described in Subsection (2)(b).

(6) (a) As provided in this Subsection (6), a council of governments shall:

(i) develop a written prioritization process for the prioritization of projects to be funded by revenues collected from a sales and use tax under this section;

(ii) create a priority list of regionally significant transportation facility projects or services described in Subsection (2)(a)(i) in accordance with Subsection (7); and

(iii) present the priority list to the county legislative body for approval in accordance with Subsection (7).

(b) The written prioritization process described in Subsection (6)(a)(i) shall include:

(i) a definition of the type of projects to which the written prioritization process applies;

(ii) subject to Subsection (6)(c), the specification of a weighted criteria system that the council of governments will use to rank proposed projects and how that weighted criteria system will be used to determine which proposed projects will be prioritized;

(iii) the specification of data that is necessary to apply the weighted criteria system;

(iv) application procedures for a project to be considered for prioritization by the council of governments; and

(v) any other provision the council of governments considers appropriate.

(c) The weighted criteria system described in Subsection (6)(b)(ii) shall include the following:

(i) the cost effectiveness of a project;

(ii) the degree to which a project will mitigate regional congestion;

(iii) the compliance requirements of applicable federal laws or regulations;

(iv) the economic impact of a project;

(v) the degree to which a project will require tax revenues to fund maintenance and operation expenses; and

(vi) any other provision the council of governments considers appropriate.

(d) A council of governments of a county of the first or second class shall submit the written prioritization process described in Subsection (6)(a)(i) to the Executive Appropriations Committee for approval prior to taking final action on:

(i) the written prioritization process; or

(ii) any proposed amendment to the written prioritization process.

(7) (a) A council of governments shall use the weighted criteria system adopted in the written prioritization process developed in accordance with Subsection (6) to create a priority list of regionally significant transportation facility projects or services for which revenues collected from a sales and use tax under this section may be expended.

(b) Before a council of governments may finalize a priority list or the funding level of a project, the council of governments shall conduct a public meeting on:

(i) the written prioritization process; and

(ii) the merits of the projects that are prioritized as part of the written prioritization process.

(c) A council of governments shall make the weighted criteria system ranking for each project prioritized as part of the written prioritization process publicly available before the public meeting required by Subsection (7)(b) is held.

(d) If a council of governments prioritizes a project over another project with a higher rank under the weighted criteria system, the council of governments shall:

(i) identify the reasons for prioritizing the project over another project with a higher rank under the weighted criteria system at the public meeting required by Subsection (7)(b); and

(ii) make the reasons described in Subsection (7)(d)(i) publicly available.

(e) Subject to Subsections (7)(f) and (g), after a council of governments finalizes a priority list in accordance with this Subsection (7), the council of governments shall:

(i) submit the priority list to the county legislative body for approval; and

(ii) obtain approval of the priority list from a majority of the members of the county legislative body.

(f) A council of governments may only submit one priority list per calendar year to the county legislative body.

(g) A county legislative body may only consider and approve one priority list submitted under Subsection (7)(e) per calendar year.

(8) (a) Except as provided in Subsection (8)(b), revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall be:

(i) deposited in or transferred to the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; and

(ii) expended as provided in Section 72-2-117.5.

(b) In a county of the first class, revenues collected from a sales and use tax under this section that a county allocates for a purpose described in Subsection (2)(b) shall be:

(i) deposited in or transferred to the County of the First Class State Highway Projects Fund created by Section 72-2-121; and

(ii) expended as provided in Section 72-2-121.

Amended by Chapter 400, 2012 General Session

59-12-2218. County, city, or town option sales and use tax for airports, highways, and systems for public transit -- Base -- Rate -- Administration of sales and use tax -- Voter approval exception.

(1) Subject to the other provisions of this part, the following may impose a sales and use tax under this section:

(a) if, on April 1, 2009, a county legislative body of a county of the second class imposes a sales and use tax under this section, the county legislative body of the county of the second class may impose the sales and use tax on the transactions:

(i) described in Subsection 59-12-103(1); and

(ii) within the county, including the cities and towns within the county; or

(b) if, on April 1, 2009, a county legislative body of a county of the second class does not impose a sales and use tax under this section:

(i) a city legislative body of a city within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that city;

(ii) a town legislative body of a town within the county of the second class may impose a sales and use tax under this section on the transactions described in Subsection 59-12-103(1) within that town; and

(iii) the county legislative body of the county of the second class may impose a sales and use tax on the transactions described in Subsection 59-12-103(1):

(A) within the county, including the cities and towns within the county, if on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, no city or town within that county imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section; or

(B) within the county, except for within a city or town within that county, if, on the date the county legislative body provides the notice described in Section 59-12-2209 to the commission stating that the county will enact a sales and use tax under this section, that city or town imposes a sales and use tax under this section or has provided the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county, city, or town legislative body that imposes a sales and use tax under this section may impose the tax at a rate of:

(a) .10%; or

(b) .25%.

(3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be expended as determined by the county, city, or town legislative body as follows:

(a) deposited as provided in Subsection (9)(b) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

(b) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the tax is imposed:

(i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town legislative body that imposes the sales and use tax, if:

(A) that city or town owns or operates the airport facility; and

(B) an airline is headquartered in that city or town; or

(c) deposited or expended for a combination of Subsections (3)(a) and (b).

(4) Subject to Subsections (5) through (7), a sales and use tax imposed at a rate described in Subsection (2)(b) shall be expended as determined by the county, city, or town legislative body as follows:

(a) deposited as provided in Subsection (9)(b) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

(b) expended for:

(i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;

(ii) a local highway that is a principal arterial highway, minor arterial highway, major collector highway, or minor collector road; or

(iii) a combination of Subsections (4)(b)(i) and (ii);

(c) expended for a project or service relating to a system for public transit for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed;

(d) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:

(i) for a county legislative body that imposes the sales and use tax, if that airport facility is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(ii) for a city or town legislative body that imposes the sales and use tax, if:

(A) that city or town owns or operates the airport facility; and

(B) an airline is headquartered in that city or town;

(e) expended for:

(i) a class B road, as defined in Section 72-3-103;

(ii) a class C road, as defined in Section 72-3-104; or

(iii) a combination of Subsections (4)(e)(i) and (ii);

(f) expended for traffic and pedestrian safety, including:

(i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in Section 72-3-104, for:

(A) a sidewalk;

(B) curb and gutter;

(C) a safety feature;

(D) a traffic sign;

(E) a traffic signal;
(F) street lighting; or
(G) a combination of Subsections (4)(f)(i)(A) through (F);
(ii) the construction of an active transportation facility that:
(A) is for nonmotorized vehicles and multimodal transportation; and
(B) connects an origin with a destination; or
(iii) a combination of Subsections (4)(f)(i) and (ii); or
(g) deposited or expended for a combination of Subsections (4)(a) through (f).
(5) A county, city, or town legislative body may not expend revenue collected within a county, city, or town from a tax under this part for a purpose described in Subsections (4)(b) through (f) unless the purpose is recommended by:
(a) for a county that is part of a metropolitan planning organization, the metropolitan planning organization of which the county is a part; or
(b) for a county that is not part of a metropolitan planning organization, the council of governments of which the county is a part.
(6) (a) (i) Except as provided in Subsection (6)(b), a county, city, or town that imposes a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax rate of .05% as provided in Subsection (9)(b)(i) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5.
(ii) Revenue deposited in accordance with Subsection (6)(a)(i) shall be expended and distributed in accordance with Section 72-2-117.5.
(b) A county, city, or town is not required to make the deposit required by Subsection (6)(a)(i) if the county, city, or town:
(i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or
(ii) has continuously imposed a tax described in Subsection (2)(b):
(A) beginning after July 1, 2010; and
(B) for a five-year period.
(7) (a) Subject to the other provisions of this Subsection (7), a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may:
(i) expend the revenues in accordance with Subsection (4); or
(ii) expend the revenues in accordance with Subsections (7)(b) through (d) if:
(A) that city or town owns or operates an airport facility; and
(B) an airline is headquartered in that city or town.
(b) (i) A city or town legislative body of a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a purpose described in Subsection (7)(b)(ii) if:
(A) that city or town owns or operates an airport facility; and
(B) an airline is headquartered in that city or town.
(ii) A city or town described in Subsection (7)(b)(i) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for:
(A) a project or service relating to the airport facility; and
(B) the portion of the project or service that is performed within the city or town

imposing the sales and use tax.

(c) If a city or town legislative body described in Subsection (7)(b)(i) determines to expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a project or service relating to an airport facility as allowed by Subsection (7)(b), any remaining revenue that is collected from the sales and use tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the project or service relating to an airport facility as allowed by Subsection (7)(b) shall be expended as follows:

(i) 75% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2; and

(ii) 25% of the remaining revenues shall be deposited as provided in Subsection (9)(c) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5 and expended and distributed in accordance with Section 72-2-117.5.

(d) A city or town legislative body that expends the revenues collected from a sales and use tax imposed at the tax rate described in Subsection (2)(b) in accordance with Subsections (7)(b) and (c):

(i) shall, on or before the date the city or town legislative body provides the notice described in Section 59-12-2209 to the commission stating that the city or town will enact a sales and use tax under this section:

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(i)(A);

(ii) shall, on or before the April 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission:

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(ii)(A);

(iii) shall, on or before April 1 of each year after the April 1 described in Subsection (7)(d)(ii):

(A) determine the tax rate, the percentage of which is greater than .10% but does not exceed .25%, the collections from which the city or town legislative body will expend for a project or service relating to an airport facility as allowed by Subsection (7)(b); and

(B) notify the commission in writing of the tax rate the city or town legislative body determines in accordance with Subsection (7)(d)(iii)(A); and

(iv) may not change the tax rate the city or town legislative body determines in accordance with Subsections (7)(d)(i) through (iii) more frequently than as prescribed by Subsections (7)(d)(i) through (iii).

(8) Before a city or town legislative body may impose a sales and use tax under this section, the city or town legislative body shall provide a copy of the notice described in Section 59-12-2209 that the city or town legislative body provides to the commission:

(a) to the county legislative body within which the city or town is located; and

(b) at the same time as the city or town legislative body provides the notice to the commission.

(9) (a) Subject to Subsections (9)(b) through (e) and Section 59-12-2207, the commission shall transmit revenues collected within a county, city, or town from a tax under this part that will be expended for a purpose described in Subsection (3)(b) or Subsections (4)(b) through (f) to the county, city, or town legislative body in accordance with Section 59-12-2206.

(b) Except as provided in Subsection (9)(c) and subject to Section 59-12-2207, the commission shall deposit revenues collected within a county, city, or town from a sales and use tax under this section that:

(i) are required to be expended for a purpose described in Subsection (6)(a) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

(ii) a county, city, or town legislative body determines to expend for a purpose described in Subsection (3)(a) or (4)(a) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 if the county, city, or town legislative body provides written notice to the commission requesting the deposit.

(c) Subject to Subsection (9)(d) or (e), if a city or town legislative body provides notice to the commission in accordance with Subsection (7)(d), the commission shall:

(i) transmit the revenues collected from the tax rate stated on the notice to the city or town legislative body monthly by electronic funds transfer; and

(ii) deposit any remaining revenues described in Subsection (7)(c) in accordance with Subsection (7)(c).

(d) (i) If a city or town legislative body provides the notice described in Subsection (7)(d)(i) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:

(A) in accordance with Subsection (9)(c);

(B) beginning on the date the city or town legislative body enacts the sales and use tax; and

(C) ending on the earlier of the June 30 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) to the commission or the date the city or town legislative body repeals the sales and use tax.

(ii) If a city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues collected from the sales and use tax:

(A) in accordance with Subsection (9)(c);

(B) beginning on the July 1 immediately following the date the city or town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission; and

(C) ending on the earlier of the June 30 of the year after the date the city or

town legislative body provides the notice described in Subsection (7)(d)(ii) or (iii) to the commission or the date the city or town legislative body repeals the sales and use tax.

(e) (i) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(i) does not provide the notice described in Subsection (7)(d)(i) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit, transfer, or deposit the revenues collected from the sales and use tax within the city or town in accordance with Subsections (9)(a) and (b).

(ii) If a city or town legislative body that is required to provide the notice described in Subsection (7)(d)(ii) or (iii) does not provide the notice described in Subsection (7)(d)(ii) or (iii) to the commission on or before the date required by Subsection (7)(d) for providing the notice, the commission shall transmit or deposit the revenues collected from the sales and use tax within the city or town in accordance with:

(A) Subsection (9)(c); and

(B) the most recent notice the commission received from the city or town legislative body under Subsection (7)(d).

Amended by Chapter 271, 2014 General Session

59-13-101. Short title.

This act is known as the "Motor and Special Fuel Tax Act."

Enacted by Chapter 6, 1987 General Session

59-13-102. Definitions.

As used in this chapter:

(1) "Aviation fuel" means fuel that is sold at airports and used exclusively for the operation of aircraft.

(2) "Clean fuel" means:

(a) the following special fuels:

(i) propane;

(ii) compressed natural gas;

(iii) liquified natural gas; or

(iv) electricity; or

(b) any motor or special fuel that meets the clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, Title II.

(3) "Commission" means the State Tax Commission.

(4) (a) "Diesel fuel" means any liquid that is commonly or commercially known, offered for sale, or used as a fuel in diesel engines.

(b) "Diesel fuel" includes any combustible liquid, by whatever name the liquid may be known or sold, when the liquid is used in an internal combustion engine for the generation of power to operate a motor vehicle licensed to operate on the highway, except fuel that is subject to the tax imposed in Part 2, Motor Fuel, and Part 4, Aviation Fuel, of this chapter.

(5) "Distributor" means any person in this state who:

(a) imports or causes to be imported motor fuel for use, distribution, or sale, whether at retail or wholesale;

(b) produces, refines, manufactures, or compounds motor fuel in this state for use, distribution, or sale in this state;

(c) is engaged in the business of purchasing motor fuel for resale in wholesale quantities to retail dealers of motor fuel and who accounts for his own motor fuel tax liability; or

(d) for purposes of Part 4, Aviation Fuel, only, makes retail sales of aviation fuel to:

(i) federally certificated air carriers; and

(ii) other persons.

(6) "Dyed diesel fuel" means diesel fuel that is dyed in accordance with 26 U.S.C. Sec. 4082 or United States Environmental Protection Agency or Internal Revenue Service regulations and that is considered destined for nontaxable off-highway use.

(7) "Exchange agreement" means an agreement between licensed suppliers where one is a position holder in a terminal who agrees to deliver taxable special fuel to the other supplier or the other supplier's customer at the loading rack of the terminal where the delivering supplier holds an inventory position.

(8) "Federally certificated air carrier" means a person who holds a certificate issued by the Federal Aviation Administration authorizing the person to conduct an all-cargo operation or scheduled operation, as defined in 14 C.F.R. Sec. 110.2.

(9) "Fuels" means any gas, liquid, solid, mixture, or other energy source which is generally used in an engine or motor for the generation of power, including aviation fuel, clean fuel, diesel fuel, motor fuel, and special fuel.

(10) "Highway" means every way or place, of whatever nature, generally open to the use of the public for the purpose of vehicular travel notwithstanding that the way or place may be temporarily closed for the purpose of construction, maintenance, or repair.

(11) "Motor fuel" means fuel that is commonly or commercially known or sold as gasoline or gasohol and is used for any purpose, but does not include aviation fuel.

(12) "Motor fuels received" means:

(a) motor fuels that have been loaded at the refinery or other place into tank cars, placed in any tank at the refinery from which any withdrawals are made directly into tank trucks, tank wagons, or other types of transportation equipment, containers, or facilities other than tank cars, or placed in any tank at the refinery from which any sales, uses, or deliveries not involving transportation are made directly; or

(b) motor fuels that have been imported by any person into the state from any other state or territory by tank car, tank truck, pipeline, or any other conveyance at the time when, and the place where, the interstate transportation of the motor fuel is completed within the state by the person who at the time of the delivery is the owner of the motor fuel.

(13) (a) "Qualified motor vehicle" means a special fuel-powered motor vehicle used, designed, or maintained for transportation of persons or property which:

(i) has a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds;

(ii) has three or more axles regardless of weight; or

(iii) is used in a combination of vehicles when the weight of the combination of vehicles exceeds 26,000 pounds gross vehicle weight.

(b) "Qualified motor vehicle" does not include a recreational vehicle not used in connection with any business activity.

(14) "Rack," as used in Part 3, Special Fuel, means a deck, platform, or open bay which consists of a series of metered pipes and hoses for the delivery or removal of diesel fuel from a refinery or terminal into a motor vehicle, rail car, or vessel.

(15) "Removal," as used in Part 3, Special Fuel, means the physical transfer of diesel fuel from a production, manufacturing, terminal, or refinery facility and includes use of diesel fuel. Removal does not include:

(a) loss by evaporation or destruction; or

(b) transfers between refineries, racks, or terminals.

(16) (a) "Special fuel" means any fuel regardless of name or character that:

(i) is usable as fuel to operate or propel a motor vehicle upon the public highways of the state; and

(ii) is not taxed under the category of aviation or motor fuel.

(b) Special fuel includes:

(i) fuels that are not conveniently measurable on a gallonage basis; and

(ii) diesel fuel.

(17) "Supplier," as used in Part 3, Special Fuel, means a person who:

(a) imports or acquires immediately upon importation into this state diesel fuel from within or without a state, territory, or possession of the United States or the District of Columbia;

(b) produces, manufactures, refines, or blends diesel fuel in this state;

(c) otherwise acquires for distribution or sale in this state, diesel fuel with respect to which there has been no previous taxable sale or use; or

(d) is in a two party exchange where the receiving party is deemed to be the supplier.

(18) "Terminal," as used in Part 3, Special Fuel, means a facility for the storage of diesel fuel which is supplied by a motor vehicle, pipeline, or vessel and from which diesel fuel is removed for distribution at a rack.

(19) "Two party exchange" means a transaction in which special fuel is transferred between licensed suppliers pursuant to an exchange agreement.

(20) "Undyed diesel fuel" means diesel fuel that is not subject to the dyeing requirements in accordance with 26 U.S.C. Sec. 4082 or United States Environmental Protection Agency or Internal Revenue Service regulations.

(21) "Use," as used in Part 3, Special Fuel, means the consumption of special fuel for the operation or propulsion of a motor vehicle upon the public highways of the state and includes the reception of special fuel into the fuel supply tank of a motor vehicle.

(22) "User," as used in Part 3, Special Fuel, means any person who uses special fuel within this state in an engine or motor for the generation of power to

operate or propel a motor vehicle upon the public highways of the state.

(23) "Ute tribal member" means an enrolled member of the Ute tribe.

(24) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

(25) "Ute trust land" means the lands:

(a) of the Uintah and Ouray Reservation that are held in trust by the United States for the benefit of:

(i) the Ute tribe;

(ii) an individual; or

(iii) a group of individuals; or

(b) specified as trust land by agreement between the governor and the Ute tribe meeting the requirements of Subsections 59-13-201.5(3) and 59-13-301.5(3).

Amended by Chapter 369, 2012 General Session

59-13-103. List of clean fuels provided to tax commission -- Report to the Legislature.

(1) The Air Quality Board shall annually provide to the tax commission a list of fuels that are clean fuels under Section 59-13-102.

(2) The Air Quality Board created under Section 19-2-103 shall in conjunction with the State Tax Commission prepare and submit to the Legislature before January 1, 1995, a report evaluating the impacts, benefits, and economic consequences of the clean fuel provisions of Sections 59-13-201 and 59-13-301.

Amended by Chapter 153, 2008 General Session

59-13-104. Tax rate decals -- Posted on pump.

(1) Beginning October 1, 1998, a person who sells motor fuel or undyed special fuel in a retail sale shall post a tax rate decal on each motor fuel or undyed special fuel pump or dispensing device.

(2) The commission shall produce the tax rate decals that are required to be posted under Subsection (1).

(3) The decals shall:

(a) clearly and conspicuously disclose the name of each tax and the tax rate of each tax imposed on motor fuel or special fuel;

(b) show the tax imposed separately by federal, state, and local taxing entities; and

(c) be obtained at no cost to motor fuel and special fuel retailers from the commission.

Enacted by Chapter 253, 1998 General Session

59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax in limited circumstances.

(1) (a) Subject to the provisions of this section, a tax is imposed at the rate of 24-1/2 cents per gallon upon all motor fuel that is sold, used, or received for sale or used in this state.

(b) In lieu of the tax imposed under Subsection (1)(a) and subject to the provisions of this section, a tax is imposed at the rate of 3/19 of the rate imposed under Subsection (1)(a), rounded up to the nearest penny, upon all motor fuels that meet the definition of clean fuel in Section 59-13-102 and are sold, used, or received for sale or use in this state.

(2) Any increase or decrease in tax rate applies to motor fuel that is imported to the state or sold at refineries in the state on or after the effective date of the rate change.

(3) (a) No motor fuel tax is imposed upon:

(i) motor fuel that is brought into and sold in this state in original packages as purely interstate commerce sales;

(ii) motor fuel that is exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

(iii) motor fuel or components of motor fuel that is sold and used in this state and distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in this state; or

(iv) motor fuel that is sold to the United States government, this state, or the political subdivisions of this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the tax exemption provided under Subsection (3)(a)(iv).

(4) The commission may either collect no tax on motor fuel exported from the state or, upon application, refund the tax paid.

(5) (a) All revenue received by the commission under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the motor fuel tax.

(6) (a) The commission shall determine what amount of motor fuel tax revenue is received from the sale or use of motor fuel used in motorboats registered under the provisions of the State Boating Act, and this amount shall be deposited in a restricted revenue account in the General Fund of the state.

(b) The funds from this account shall be used for the construction, improvement, operation, and maintenance of state-owned boating facilities and for the payment of the costs and expenses of the Division of Parks and Recreation in administering and enforcing the State Boating Act.

(7) (a) The United States government or any of its instrumentalities, this state, or a political subdivision of this state that has purchased motor fuel from a licensed distributor or from a retail dealer of motor fuel and has paid the tax on the motor fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

Act, the commission shall make rules governing the application and refund provided for in Subsection (7)(a).

(8) (a) The commission shall refund annually into the Off-Highway Vehicle Account in the General Fund an amount equal to the lesser of the following:

(i) .5% of the motor fuel tax revenues collected under this section; or

(ii) $1,050,000.

(b) This amount shall be used as provided in Section 41-22-19.

(9) (a) Beginning on April 1, 2001, a tax imposed under this section on motor fuel that is sold, used, or received for sale or use in this state is reduced to the extent provided in Subsection (9)(b) if:

(i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor fuel is paid to the Navajo Nation;

(ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or not the person required to pay the tax is an enrolled member of the Navajo Nation; and

(iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (9) for the administration of the reduction of tax.

(b) (i) If but for Subsection (9)(a) the motor fuel is subject to a tax imposed by this section:

(A) the state shall be paid the difference described in Subsection (9)(b)(ii) if that difference is greater than $0; and

(B) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (9)(b)(ii) is less than or equal to $0.

(ii) The difference described in Subsection (9)(b)(i) is equal to the difference between:

(A) the amount of tax imposed on the motor fuel by this section; less

(B) the tax imposed and collected by the Navajo Nation on the motor fuel.

(c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under a tax imposed by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of motor fuel does not include any interest or penalties a taxpayer may be required to pay to the Navajo Nation.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (9).

(e) The agreement required under Subsection (9)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (9); or

(C) affect the power of the state to establish rates of taxation;

(ii) shall:

(A) be in writing;

(B) be signed by:

(I) the chair of the commission or the chair's designee; and

(II) a person designated by the Navajo Nation that may bind the Navajo Nation;
(C) be conditioned on obtaining any approval required by federal law;
(D) state the effective date of the agreement; and
(E) state any accommodation the Navajo Nation makes related to the construction and maintenance of state highways and other infrastructure within the Utah portion of the Navajo Nation; and
(iii) may:
(A) notwithstanding Section 59-1-403, authorize the commission to disclose to the Navajo Nation information that is:
(I) contained in a document filed with the commission; and
(II) related to the tax imposed under this section;
(B) provide for maintaining records by the commission or the Navajo Nation; or
(C) provide for inspections or audits of distributors, carriers, or retailers located or doing business within the Utah portion of the Navajo Nation.
(f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 60-day period beginning on the date the commission receives notice:
(A) from the Navajo Nation; and
(B) meeting the requirements of Subsection (9)(f)(ii).
(ii) The notice described in Subsection (9)(f)(i) shall state:
(A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on motor fuel;
(B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A); and
(C) the new rate of the tax described in Subsection (9)(f)(ii)(A).
(g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not permitted under this Subsection (9) beginning on the first day of the calendar quarter after a 30-day period beginning on the day the agreement terminates.
(h) If there is a conflict between this Subsection (9) and the agreement required by Subsection (9)(a), this Subsection (9) governs.

Amended by Chapter 308, 2010 General Session

59-13-201.5. Refund of taxes impacting Ute tribe and Ute tribal members.
(1) In accordance with this section, the Ute tribe may receive a refund from the state of amounts paid to a distributor for taxes imposed on the distributor in accordance with Section 59-13-204 if:
(a) the motor fuel is purchased from a licensed distributor;
(b) the Ute tribe pays the distributor as provided in Section 59-13-204;
(c) the motor fuel is purchased for use by:
(i) the Ute tribe; or
(ii) a Ute tribal member from a retail station:
(A) wholly owned by the Ute tribe; and
(B) that is located on Ute trust land; and

(d) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of Subsection (3).

(2) In addition to the agreement required by Subsection (1), the commission shall enter into an agreement with the Ute tribe that:

(a) provides an allocation formula or procedure for determining:

(i) the amount of motor fuel sold by the Ute tribe to a Ute tribal member; and

(ii) the amount of motor fuel sold by the Ute tribe to a person who is not a Ute tribal member; and

(b) provides a process by which:

(i) the Ute tribe obtains a refund permitted by this section; and

(ii) reports and remits motor fuel tax to the state for sales made to persons who are not Ute tribal members.

(3) The agreement required under Subsection (1):

(a) may not:

(i) authorize the state to impose a tax in addition to a tax imposed under this chapter; or

(ii) provide a refund, credit, or similar tax relief that is greater or different than the refund permitted under this section;

(iii) affect the power of the state to establish rates of taxation; and

(b) shall:

(i) provide that the state agrees to allow the refund described in this section;

(ii) be in writing;

(iii) be signed by:

(A) the governor; and

(B) the chair of the Business Committee of the Ute tribe;

(iv) be conditioned on obtaining any approval required by federal law; and

(v) state the effective date of the agreement.

(4) (a) The governor shall report to the commission by no later than February 1 of each year as to whether or not an agreement meeting the requirements of this Subsection (4) is in effect.

(b) If an agreement meeting the requirements of this Subsection (4) is terminated, the refund permitted under this section is not allowed beginning the January 1 following the date the agreement terminates.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules regarding the procedures for seeking a refund agreed to under the agreement described in Subsection (2).

Amended by Chapter 382, 2008 General Session

59-13-202. Refund of tax for agricultural uses on individual income and corporate franchise and income tax returns -- Application for permit for refund -- Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties.

(1) As used in this section:

(a) (i) Except at provided in Subsection (1)(a)(ii), "claimant" means a resident or nonresident person.

(ii) "Claimant" does not include an estate or trust.

(b) "Estate" means a nonresident estate or a resident estate.

(c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or trust may claim:

(i) as provided by statute; and

(ii) regardless of whether, for the taxable year for which the claimant, estate, or trust claims the tax credit, the claimant, estate, or trust has a tax liability under:

(A) Chapter 7, Corporate Franchise and Income Taxes; or

(B) Chapter 10, Individual Income Tax Act.

(d) "Trust" means a nonresident trust or a resident trust.

(2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state for the purpose of operating or propelling stationary farm engines and self-propelled farm machinery used for nonhighway agricultural uses, and that has paid the tax on the motor fuel as provided by this part, is entitled to a refund of the tax subject to the conditions and limitations provided under this part.

(3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate, or trust files under:

(i) Chapter 7, Corporate Franchise and Income Taxes; or

(ii) Chapter 10, Individual Income Tax Act.

(b) A claimant, estate, or trust not subject to filing a tax return described in Subsection (3)(a) shall obtain a permit and file claims on a calendar year basis.

(c) Any claimant, estate, or trust claiming a refundable tax credit under this section is required to furnish any or all of the information outlined in this section upon request of the commission.

(d) A refundable tax credit under this section is allowed only on purchases on which tax is paid during the taxable year covered by the tax return.

(4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall be filed containing:

(a) the name of the claimant, estate, or trust;

(b) the claimant's, estate's, or trust's address;

(c) location and number of acres owned and operated, location and number of acres rented and operated, the latter of which shall be verified by a signed statement from the legal owner;

(d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

(e) make, size, type of fuel used, and power rating of each piece of equipment using fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm machinery with which the claimant, estate, or trust works for hire doing custom jobs for other farmers, the application shall include information the commission requires and shall all be contained in, and be considered part of, the original application. The claimant, estate, or trust shall also file with the application a certificate from the county assessor showing each piece of equipment using fuel. This original application and all information contained in it constitutes a permanent file with the commission in the name of the claimant, estate, or trust.

(5) Any claimant, estate, or trust claiming the right to a refund of motor fuel tax paid shall file a claim with the commission by April 15 of each year for the refund for the previous calendar year. The claim shall state the name and address of the claimant, estate, or trust, the number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support the claim. No more than one claim for a tax refund may be filed annually by each user of motor fuel purchased for nonhighway agricultural uses.

(6) Upon commission approval of the claim for a refund, the Division of Finance shall pay the amount found due to the claimant, estate, or trust. The total amount of claims for refunds shall be paid from motor fuel taxes.

(7) The commission may promulgate rules to enforce this part, and may refuse to accept as evidence of purchase or payment any instruments which show alteration or which fail to indicate the quantity of the purchase, the price of the motor fuel, a statement that it is purchased for purposes other than transportation, and the date of purchase and delivery. If the commission is not satisfied with the evidence submitted in connection with the claim, it may reject the claim or require additional evidence.

(8) Any claimant, estate, or trust aggrieved by the decision of the commission with respect to a refundable tax credit or refund may file a request for agency action, requesting a hearing before the commission.

(9) Any claimant, estate, or trust that makes any false claim, report, or statement, as claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged violations of this part. In addition to these penalties, the claimant, estate, or trust may not receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for refund for a period of five years.

(10) Refunds to which a claimant, estate, or trust is entitled under this part shall be paid from the Transportation Fund.

Amended by Chapter 223, 2006 General Session

59-13-202.5. Refunds of tax due to fire, flood, storm, accident, crime, discharge in bankruptcy, or mixing of fuels -- Filing claims and affidavits -- Commission approval -- Rulemaking -- Appeals -- Penalties.

(1) (a) A retailer, wholesaler, or licensed distributor, who without fault, sustains a loss or destruction of 8,000 or more gallons of motor fuel in a single incident due to fire, flood, storm, accident, or the commission of a crime and who has paid or is required to pay the tax on the motor fuel as provided by this part, is entitled to a refund or credit of the tax subject to the conditions and limitations provided under this section.

(b) The claimant shall file a claim for a refund or credit with the commission within 90 days of the incident.

(c) Any part of a loss or destruction eligible for indemnification under an insurance policy for the taxes paid or required on the loss or destruction of motor fuel is not eligible for a refund or credit under this section.

(d) Any claimant filing a claim for a refund or credit shall furnish any or all of the information outlined in this section upon request of the commission.

(e) The burden of proof of loss or destruction is on the claimant who shall provide evidence of loss or destruction to the satisfaction of the commission.

(f) (i) The claim shall include an affidavit containing the:

(A) name of claimant;

(B) claimant's address;

(C) date, time, and location of the incident;

(D) cause of the incident;

(E) name of the investigating agencies at the scene;

(F) number of gallons actually lost from sale; and

(G) information on any insurance coverages related to the incident.

(ii) The claimant shall support the claim by submitting the original invoices or copy of the original invoices.

(iii) This original claim and all information contained in it constitutes a permanent file with the commission in the name of the claimant.

(2) (a) A retailer, wholesaler, or licensed distributor who has paid the tax on motor fuel as provided by this part is entitled to a refund for taxes paid on that portion of an account that:

(i) relates to 4,500 or more gallons of motor fuel purchased in a single transaction for which no payment has been received; and

(ii) has been discharged in a bankruptcy proceeding.

(b) The claimant shall file a claim for refund with the commission within 90 days from the date of the discharge.

(c) Any claimant filing a claim for a refund shall furnish any or all of the information outlined in this section upon request of the commission.

(d) The burden of proof of discharge is on the claimant who shall provide evidence of discharge to the satisfaction of the commission.

(e) The claim shall include an affidavit containing the following:

(i) the name of the claimant;

(ii) the claimant's address;

(iii) the name of the debtor that received a discharge in bankruptcy; and

(iv) the portion of the account that is subject to an order granting a discharge.

(f) The claimant shall support the claim by submitting:

(i) the original invoices or a copy of the original invoices; and

(ii) a certified copy of the notice of discharge.

(g) This original claim and all information contained in it constitutes a permanent file with the commission in the name of the claimant.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall promulgate rules for the allocation of the discharge under this Subsection (2) to maximize the claimant's refund amount.

(3) (a) Subject to the conditions and limitations of this section, a retailer, wholesaler, or licensed distributor is entitled to a refund or credit of motor fuel tax if:

(i) dyed diesel fuel or special fuel is mixed with motor fuel; and

(ii) the retailer, wholesaler, or licensed distributor:

(A) returns the mixed motor fuel to the refinery for re-refining; and

(B) has paid the tax on the motor fuel as provided by this part.

(b) The claimant shall file a claim for a refund or credit with the commission within 90 days of the date the motor fuel was returned to the refinery for re-refinement.

(c) Any claimant filing a claim for a refund or credit shall furnish any or all of the information outlined in this section upon request of the commission.

(d) The burden of proof that the motor fuel was returned to the refinery for re-refinement is on the claimant who shall provide evidence to the satisfaction of the commission that the motor fuel was returned to the refinery for re-refinement.

(e) (i) The claim shall include an affidavit containing the:

(A) name of claimant;

(B) claimant's address;

(C) date, time, and location of the incident;

(D) nature of the incident; and

(E) number of gallons actually required to be re-refined.

(ii) The claimant shall support the claim by submitting written verification from a refinery that:

(A) the motor fuel mixed with the dyed diesel fuel or special fuel was returned to the refinery for re-refinement; and

(B) motor fuel tax was paid on the returned motor fuel.

(iii) The claim filed pursuant to Subsection (3)(b) and all information contained in it constitutes a permanent file with the commission in the name of the claimant.

(4) (a) Upon commission approval of the claim for a refund, the commission shall pay the amount found due to the claimant.

(b) The total amount of claims for refunds shall be paid from the Transportation Fund.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may:

(i) promulgate rules to enforce this part; and

(ii) refuse to accept unsubstantiated evidence for the claim.

(b) If the commission is not satisfied with the evidence submitted in connection with the claim, it may:

(i) reject the claim; or

(ii) require additional evidence.

(6) Any person aggrieved by the decision of the commission with respect to a refund or credit may file a request for agency action, requesting a hearing before the commission.

(7) (a) Any person who makes any false claim, report, or statement, either as claimant, agent, or creditor, with intent to defraud or secure a refund or credit to which the claimant is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged violations of this part.

(b) In addition to the penalties under Subsection (7)(a), the person may not receive any refund or credit as a claimant or as a creditor of a claimant for refund or credit for a period of five years.

(8) Any refund or credit made under this section does not affect any deduction allowed under Section 59-13-207.

Amended by Chapter 134, 2008 General Session
Amended by Chapter 382, 2008 General Session

59-13-203.1. Definitions -- License requirements -- Penalty -- Application process and requirements -- Fee not required -- Bonds.

(1) As used in this section:

(a) "applicant" means a person that:

(i) is required by this section to obtain a license; and

(ii) submits an application:

(A) to the commission; and

(B) for a license under this section;

(b) "application" means an application for a license under this section;

(c) "fiduciary of the applicant" means a person that:

(i) is required to collect, truthfully account for, and pay over a tax under this part for an applicant; and

(ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

(B) is a director of the applicant described in Subsection (1)(c)(i);

(C) is an employee of the applicant described in Subsection (1)(c)(i);

(D) is a partner of the applicant described in Subsection (1)(c)(i);

(E) is a trustee of the applicant described in Subsection (1)(c)(i); or

(F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) "fiduciary of the licensee" means a person that:

(i) is required to collect, truthfully account for, and pay over a tax under this part for a licensee; and

(ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);

(B) is a director of the licensee described in Subsection (1)(d)(i);

(C) is an employee of the licensee described in Subsection (1)(d)(i);

(D) is a partner of the licensee described in Subsection (1)(d)(i);

(E) is a trustee of the licensee described in Subsection (1)(d)(i); or

(F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(e) "license" means a license under this section; and

(f) "licensee" means a person that is licensed under this section by the commission.

(2) A person that is required to collect a tax under this part is guilty of a criminal violation as provided in Section 59-1-401 if before obtaining a license under this section that person engages in business within the state.

(3) The license described in Subsection (2):
(a) shall be granted and issued:
(i) by the commission in accordance with this section;
(ii) without a license fee; and
(iii) if:
(A) an applicant:
(I) states the applicant's name and address in the application; and
(II) provides other information in the application that the commission may require; and
(B) the person meets the requirements of this section to be granted a license as determined by the commission;
(b) may not be assigned to another person; and
(c) is valid:
(i) only for the person named on the license; and
(ii) until:
(A) the person described in Subsection (3)(c)(i):
(I) ceases to do business; or
(II) changes that person's business address; or
(B) the commission revokes the license.
(4) The commission shall review an application and determine whether:
(a) the applicant meets the requirements of this section to be issued a license; and
(b) a bond is required to be posted with the commission in accordance with Subsection (5) before the applicant may be issued a license.
(5) (a) An applicant shall post a bond with the commission before the commission may issue the applicant a license if:
(i) a license under this section was revoked for a delinquency under this part for:
(A) the applicant;
(B) a fiduciary of the applicant; or
(C) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this part; or
(ii) there is a delinquency in paying a tax under this part for:
(A) the applicant;
(B) a fiduciary of the applicant; or
(C) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this part.
(b) If the commission determines it is necessary to ensure compliance with this part, the commission may require a licensee to:
(i) for a licensee that has not posted a bond under this section with the commission, post a bond with the commission in accordance with Subsections (5)(c) through (g); or
(ii) for a licensee that has posted a bond under this section with the commission, increase the amount of the bond posted with the commission.
(c) A bond under this Subsection (5) shall be:

(i) executed by:
(A) for an applicant, the applicant as principal, with a corporate surety; or
(B) for a licensee, the licensee as principal, with a corporate surety; and
(ii) payable to the commission conditioned upon the faithful performance of all of the requirements of this part including:
(A) the payment of all taxes under this part;
(B) the payment of any:
(I) penalty as provided in Section 59-1-401; or
(II) interest as provided in Section 59-1-402; or
(C) any other obligation of the:
(I) applicant under this part; or
(II) licensee under this part.
(d) Except as provided in Subsection (5)(f), the commission shall calculate the amount of a bond under this Subsection (5) on the basis of:
(i) commission estimates of:
(A) an applicant's tax liability under this part; or
(B) a licensee's tax liability under this part; and
(ii) the amount of a delinquency described in Subsection (5)(e) if:
(A) a license under this section was revoked for a delinquency under this part for:
(I) (Aa) an applicant; or
(Bb) a licensee;
(II) a fiduciary of the:
(Aa) applicant; or
(Bb) licensee; or
(III) a person for which the applicant, licensee, fiduciary of the applicant, or fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this part; or
(B) there is a delinquency in paying a tax under this part for:
(I) (Aa) an applicant; or
(Bb) a licensee;
(II) a fiduciary of the:
(Aa) applicant; or
(Bb) licensee; or
(III) a person for which the applicant, licensee, fiduciary of the applicant, or fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this part.
(e) Except as provided in Subsection (5)(f), for purposes of Subsection (5)(d)(ii):
(i) for an applicant, the amount of the delinquency is the sum of:
(A) the amount of any delinquency that served as a basis for revoking the license under this section of:
(I) the applicant;
(II) a fiduciary of the applicant; or
(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this part; or

(B) the amount of tax that any of the following owe under this part:
(I) the applicant;
(II) a fiduciary of the applicant; and
(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this part; or
(ii) for a licensee, the amount of the delinquency is the sum of:
(A) the amount of any delinquency that served as a basis for revoking the license under this section of:
(I) the licensee;
(II) a fiduciary of the licensee; or
(III) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this part; or
(B) the amount of tax that any of the following owe under this part:
(I) the licensee;
(II) a fiduciary of the licensee; and
(III) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over a tax under this part.
(f) Notwithstanding Subsection (5)(d) or (e), a bond required by this Subsection (5) may not:
(i) be less than $10,000; or
(ii) exceed $500,000.
(g) (i) Subject to Subsection (5)(g)(ii), a bond required by this section may be combined into one bond with any other bond required by this chapter.
(ii) For purposes of Subsection (5)(g)(i), if a bond required by this section is combined into one bond with any other bond required by this chapter, the amount of that combined bond is determined by:
(A) calculating the separate amount of each bond required for each type of fuel included in the combined bond; and
(B) aggregating the separate amounts calculated in Subsection (5)(g)(ii)(A).
(6) (a) The commission shall revoke a license under this section if:
(i) a licensee violates any provision of this part; and
(ii) before the commission revokes the license the commission provides the licensee:
(A) reasonable notice; and
(B) a hearing.
(b) If the commission revokes a licensee's license in accordance with Subsection (6)(a), the commission may not issue another license to that licensee until that licensee complies with the requirements of this part, including:
(i) paying any:
(A) tax due under this part;
(B) penalty as provided in Section 59-1-401; or
(C) interest as provided in Section 59-1-402; and
(ii) posting a bond in accordance with Subsection (5).

Amended by Chapter 382, 2008 General Session

59-13-204. Distributors liable for tax -- Computations -- Exceptions -- Assumption of liability statements -- Motor fuel received -- Tax to be added to price of motor fuel.

(1) Distributors licensed under this part who receive motor fuel are liable for the tax as provided by this part, and shall report the receipt of the motor fuel to the commission and pay the tax as prescribed.

(2) (a) Distributors shall compute the tax on the total taxable amount of motor fuel produced, purchased, received, imported, or refined in this state, and all distributors shipping motor fuels into this state shall compute the tax on the total taxable amount of motor fuels received for sale or use in this state.

(b) All motor fuel distributed by any distributor to the distributor's branches within this state is considered to be sold at the time of this distribution and is subject to this part as if actually sold.

(c) Distributors licensed under this part may sell motor fuel to other licensed distributors without the payment or collection of the tax, if the purchasing distributor furnishes the seller with an assumption of liability statement indicating the purchasing distributor is a licensed and bonded Utah motor fuel distributor and will assume the Utah motor fuel tax responsibility on all motor fuel purchased from the seller. The seller shall report each sale to the commission in a monthly report of sales as provided under Section 59-13-206.

(3) If motor fuels have been purchased outside of this state and brought into this state in original packages from a distributor for the use of the consumer, then the tax shall be imposed when the motor fuel is received.

(4) (a) Every distributor and retail dealer of motor fuels shall add the amount of the taxes levied and assessed by this part to the price of the motor fuels.

(b) This Subsection (4) in no way affects the method of the collection of the taxes as specified in this part.

(c) Notwithstanding Subsection (4)(a), if the Ute tribe may receive a refund under Section 59-13-201.5, the Ute tribe is not required to add the amount of the taxes levied and assessed by this part to the price of motor fuel that is purchased:

(i) by a Ute tribal member; and

(ii) at a retail station:

(A) wholly owned by the Ute tribe; and

(B) located on Ute trust land.

(d) For purposes of Subsection (4)(a), the amount of taxes levied and assessed by this part do not include the amount of the reduction of tax under Subsection 59-13-201(9).

Amended by Chapter 306, 2007 General Session

59-13-205. License certificate -- Display at place of business -- Failure to secure license -- Penalties.

(1) Each distributor of motor fuel shall, at all times, conspicuously display at the distributor's place of business or agency a license certificate issued by the commission.

(2) If any person becomes a distributor, without first securing the license

required by this part, the motor fuel tax shall be immediately due and payable on account of all motor fuel received. The commission shall proceed immediately to determine the amount of distributions and shall assess immediately the motor fuel tax on account of the distributions, adding to the motor fuel tax a penalty for failure to secure the license as provided in Section 59-1-401.

Enacted by Chapter 6, 1987 General Session

59-13-206. Distributor requirements -- Reports and statements to be furnished to the commission -- Contents of statements -- Statement to be signed -- Penalties.

(1) Every distributor of motor fuel shall render to the commission, on or before the last day of each month, the following statements on forms prescribed by the commission:

(a) the number of gallons of motor fuel sold, used, or received for sale or use by the distributor during the preceding calendar month;

(b) an itemized account of the date and quantities of motor fuel sold, used, or received for sale or use, stating separately the sales made in interstate commerce and those made in broken packages; and

(c) any other information incidental to the enforcing of this part which the commission may require.

(2) The statement shall be signed by a responsible representative of the distributor. This signature need not be notarized, but when signed is considered to have been made under oath. Bills shall be rendered to all purchasers of motor fuel by distributors.

(3) A penalty for failure to file the statement required by Subsection (1) shall be as provided under Section 59-1-401.

Enacted by Chapter 6, 1987 General Session

59-13-207. Deductions allowed -- Prorating of deduction to retail dealers.

(1) There is deducted 2% from the gross amount of motor fuel taxable under this part to allow for all evaporation, loss in handling, and expenses of collection. All distributors shall report the gross amount of taxable motor fuel which is produced, received, refined, or sold in this state from which this deduction shall be made.

(2) At the time of submitting the report and payment of the tax, the producers and refiners shall further submit evidence to the satisfaction of the commission that from the amount of the 2% deduction made by them, one half of the deduction has been paid to the registered retail dealers on quantities sold to them during the period covered by the report.

Enacted by Chapter 6, 1987 General Session

59-13-208. Motor fuel shipments from out of state -- Reports required.

(1) Every person delivering within this state any motor fuel which has been

shipped from outside the state shall, on or before the last day of each month, report in writing all deliveries during the preceding month to the commission on forms prescribed by it. The report shall show:

(a) the date of delivery;

(b) the person who received the delivery;

(c) the quantity as shown by the bill of lading; and

(d) any other information the commission may require.

(2) The commission may require from carriers necessary information regarding the shipment of other petroleum products.

Enacted by Chapter 6, 1987 General Session

59-13-209. Due date -- Delinquency -- Penalties -- Interest -- Collection procedure.

(1) (a) The motor fuel tax is due and payable by the distributor on or before the last day of each month to the commission for the number of gallons of motor fuel sold, used, or received for sale or use by the distributor during the preceding calendar month.

(b) The commission shall receipt the distributor for taxes paid and shall promptly deposit all revenue with the state treasurer.

(2) (a) If any distributor fails or refuses to pay any tax when it becomes due and payable, the tax is delinquent.

(b) If a distributor is delinquent in tax payments, the commission shall impose a penalty as provided under Section 59-1-401.

(c) The amount of the tax shall bear interest at the rate and in the manner prescribed in Section 59-1-402.

(3) (a) A report or payment of tax is not considered delinquent if the envelope in which the report or remittance is enclosed bears a post office cancellation mark dated on or before the date on which the report or payment is due.

(b) The commission, upon receipt of a report or remittance described in Subsection (3)(a), shall treat the report or payment as if it had been received on the date it was due.

(4) If any part of a tax due is deficient or delinquent because of negligence or disregard of this part, or in the case of false or fraudulent monthly reports, or intent to evade the tax, a penalty shall be added to the tax due as provided in Section 59-1-401.

(5) (a) A tax due and unpaid under this part constitutes a debt due the state and may be collected, together with interest, penalty, and costs, by appropriate judicial proceeding.

(b) The remedy described in Subsection (5)(a) is in addition to all other remedies.

(6) If the tax imposed by this part is not paid when it is due, collection may be made in accordance with Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

Amended by Chapter 212, 2009 General Session

59-13-210. Commission rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to administer and enforce this part.

Amended by Chapter 212, 2009 General Session

59-13-211. Distributor's records -- Audit requirements -- Deposit of revenues with treasurer -- Dedicated credits.

(1) A distributor who does not maintain adequate motor fuel records at one location in this state so that an audit of the records may be made, may be required to:

(a) forward the necessary records to Salt Lake City; or

(b) pay the necessary expenses of an auditor to make the examination at the proper division office.

(2) Funds collected under this section:

(a) shall be deposited with the state treasurer; and

(b) are dedicated credits for the commission.

Amended by Chapter 212, 2009 General Session

59-13-212. Penalties for failure to make reports or returns -- Criminal penalties.

Any person who violates this part or who fails or neglects to make any statement, report, or return required by this part, where the penalty is not otherwise specifically prescribed, is guilty of a criminal violation as provided in Section 59-1-401.

Enacted by Chapter 6, 1987 General Session

59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer and credited to Transportation Fund -- Reduction of tax in limited circumstances.

(1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section 59-13-304, a tax is imposed at the same rate imposed under Subsection 59-13-201(1)(a) on the:

(i) removal of undyed diesel fuel from any refinery;

(ii) removal of undyed diesel fuel from any terminal;

(iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or warehousing;

(iv) sale of undyed diesel fuel to any person who is not registered as a supplier under this part unless the tax has been collected under this section;

(v) any untaxed special fuel blended with undyed diesel fuel; or

(vi) use of untaxed special fuel other than propane or electricity.

(b) The tax imposed under this section shall only be imposed once upon any special fuel.

(2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:

(i) is sold or used for any purpose other than to operate or propel a motor

vehicle upon the public highways of the state, but this exemption applies only in those cases where the purchasers or the users of special fuel establish to the satisfaction of the commission that the special fuel was used for purposes other than to operate a motor vehicle upon the public highways of the state; or

(ii) is sold to this state or any of its political subdivisions.

(b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that is:

(i) sold to the United States government or any of its instrumentalities or to this state or any of its political subdivisions;

(ii) exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

(iii) used in a vehicle off-highway;

(iv) used to operate a power take-off unit of a vehicle;

(v) used for off-highway agricultural uses;

(vi) used in a separately fueled engine on a vehicle that does not propel the vehicle upon the highways of the state; or

(vii) used in machinery and equipment not registered and not required to be registered for highway use.

(3) No tax is imposed or collected on special fuel if it is:

(a) (i) purchased for business use in machinery and equipment not registered and not required to be registered for highway use; and

(ii) used pursuant to the conditions of a state implementation plan approved under Title 19, Chapter 2, Air Conservation Act; or

(b) propane or electricity.

(4) Upon request of a buyer meeting the requirements under Subsection (3), the Division of Air Quality shall issue an exemption certificate that may be shown to a seller.

(5) The special fuel tax shall be paid by the supplier.

(6) (a) The special fuel tax shall be paid by every user who is required by Sections 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

(b) The user shall receive a refundable credit for special fuel taxes paid on purchases which are delivered into vehicles and for which special fuel tax liability is reported.

(7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the commission from taxes and license fees under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the special fuel tax.

(c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303 may be used by the commission as a dedicated credit to cover the costs of electronic credentialing as provided in Section 41-1a-303.

(8) The commission may either collect no tax on special fuel exported from the state or, upon application, refund the tax paid.

(9) (a) The United States government or any of its instrumentalities, this state,

or a political subdivision of this state that has purchased special fuel from a supplier or from a retail dealer of special fuel and has paid the tax on the special fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund in a manner prescribed by the commission.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (9)(a).

(10) (a) The purchaser shall pay the tax on diesel fuel or clean fuel purchased for uses under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid as provided in Subsection (9) and this Subsection (10).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund for off-highway and nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

(c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural uses shall be made in accordance with the tax return procedures under Section 59-13-202.

(11) (a) Beginning on April 1, 2001, a tax imposed under this section on special fuel is reduced to the extent provided in Subsection (11)(b) if:

(i) the Navajo Nation imposes a tax on the special fuel;

(ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the person required to pay the tax is an enrolled member of the Navajo Nation; and

(iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (11) for the administration of the reduction of tax.

(b) (i) If but for Subsection (11)(a) the special fuel is subject to a tax imposed by this section:

(A) the state shall be paid the difference described in Subsection (11)(b)(ii) if that difference is greater than $0; and

(B) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (11)(b)(ii) is less than or equal to $0.

(ii) The difference described in Subsection (11)(b)(i) is equal to the difference between:

(A) the amount of tax imposed on the special fuel by this section; less

(B) the tax imposed and collected by the Navajo Nation on the special fuel.

(c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on the special fuel does not include any interest or penalties a taxpayer may be required to pay to the Navajo Nation.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (11).

(e) The agreement required under Subsection (11)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (11); or

(C) affect the power of the state to establish rates of taxation;

(ii) shall:

(A) be in writing;

(B) be signed by:

(I) the chair of the commission or the chair's designee; and

(II) a person designated by the Navajo Nation that may bind the Navajo Nation;

(C) be conditioned on obtaining any approval required by federal law;

(D) state the effective date of the agreement; and

(E) state any accommodation the Navajo Nation makes related to the construction and maintenance of state highways and other infrastructure within the Utah portion of the Navajo Nation; and

(iii) may:

(A) notwithstanding Section 59-1-403, authorize the commission to disclose to the Navajo Nation information that is:

(I) contained in a document filed with the commission; and

(II) related to the tax imposed under this section;

(B) provide for maintaining records by the commission or the Navajo Nation; or

(C) provide for inspections or audits of suppliers, distributors, carriers, or retailers located or doing business within the Utah portion of the Navajo Nation.

(f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on special fuel, any change in the amount of the reduction of taxes under this Subsection (11) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 60-day period beginning on the date the commission receives notice:

(A) from the Navajo Nation; and

(B) meeting the requirements of Subsection (11)(f)(ii).

(ii) The notice described in Subsection (11)(f)(i) shall state:

(A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on special fuel;

(B) the effective date of the rate change of the tax described in Subsection (11)(f)(ii)(A); and

(C) the new rate of the tax described in Subsection (11)(f)(ii)(A).

(g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not permitted under this Subsection (11) beginning on the first day of the calendar quarter after a 30-day period beginning on the day the agreement terminates.

(h) If there is a conflict between this Subsection (11) and the agreement required by Subsection (11)(a), this Subsection (11) governs.

(12) (a) Beginning on January 1, 2009, a tax imposed under this section on compressed natural gas is imposed at a reduced rate of 8-1/2 cents per gasoline gallon equivalent to be increased or decreased proportionately with any increase or decrease in the rate in Subsection 59-13-201(1)(a).

(b) Beginning on July 1, 2011, a tax imposed under this section on liquified natural gas is imposed at a reduced rate of 8-1/2 cents per gasoline gallon equivalent

to be increased or decreased proportionately with any increase or decrease in the rate in Subsection 59-13-201(1)(a).

Amended by Chapter 259, 2011 General Session

59-13-301.5. Refund of taxes impacting Ute tribe and Ute tribal members.

(1) In accordance with this section, the Ute tribe may receive a refund from the state of amounts paid in accordance with Section 59-13-301 if:

(a) the amounts paid by the Ute tribe when it purchases the special fuel includes the amount paid in taxes on the special fuel;

(b) the special fuel is purchased for use by:

(i) the Ute tribe; or

(ii) a Ute tribal member from a retail station that is:

(A) wholly owned by the Ute tribe; and

(B) located on Ute trust land; and

(c) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of Subsection (3).

(2) In addition to the agreement required by Subsection (1), the commission shall enter into an agreement with the Ute tribe that:

(a) provides an allocation formula or procedure for determining:

(i) the amount of special fuel sold by the Ute tribe to a Ute tribal member; and

(ii) the amount of special fuel sold by the Ute tribe to a person who is not a Ute tribal member; and

(b) provides a process by which:

(i) the Ute tribe obtains a refund permitted by this section; and

(ii) reports and remits special fuel tax to the state for sales made to persons who are not Ute tribal members.

(3) The agreement required under Subsection (1):

(a) may not:

(i) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(ii) provide a refund, credit, or similar tax relief that is greater or different than the refund permitted under this section; or

(iii) affect the power of the state to establish rates of taxation; and

(b) shall:

(i) provide that the state agrees to allow the refund described in this section;

(ii) be in writing;

(iii) be signed by:

(A) the governor; and

(B) the chair of the Business Committee of the Ute tribe;

(iv) be conditioned on obtaining any approval required by federal law; and

(v) state the effective date of the agreement.

(4) (a) The governor shall report to the commission by no later than February 1 of each year as to whether or not an agreement meeting the requirements of this Subsection (4) is in effect.

(b) If an agreement meeting the requirements of this Subsection (4) is terminated, the refund permitted under this section is not allowed beginning the January 1 following the date the agreement terminates.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules regarding the procedures for seeking a refund agreed to under the agreement described in Subsection (2).

Amended by Chapter 382, 2008 General Session

59-13-302. Definitions -- License requirements -- Penalty -- Application process and requirements -- Fee not required -- Bonds -- Discontinuance of business -- Liens upon property.

(1) As used in this section:

(a) "applicant" means a person that:

(i) is required by this section to obtain a license; and

(ii) submits an application:

(A) to the commission; and

(B) for a license under this section;

(b) "application" means an application for a license under this section;

(c) "fiduciary of the applicant" means a person that:

(i) is required to collect, truthfully account for, and pay over an amount under this part for an applicant; and

(ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

(B) is a director of the applicant described in Subsection (1)(c)(i);

(C) is an employee of the applicant described in Subsection (1)(c)(i);

(D) is a partner of the applicant described in Subsection (1)(c)(i);

(E) is a trustee of the applicant described in Subsection (1)(c)(i); or

(F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) "fiduciary of the licensee" means a person that:

(i) is required to collect, truthfully account for, and pay over an amount under this part for a licensee; and

(ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);

(B) is a director of the licensee described in Subsection (1)(d)(i);

(C) is an employee of the licensee described in Subsection (1)(d)(i);

(D) is a partner of the licensee described in Subsection (1)(d)(i);

(E) is a trustee of the licensee described in Subsection (1)(d)(i); or

(F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(e) "license" means a license under this section; and

(f) "licensee" means a person that is licensed under this section by the

commission.

(2) A person that is required to collect an amount under this part is guilty of a criminal violation as provided in Section 59-1-401 if before obtaining a license under this section that person engages in business within the state.

(3) The license described in Subsection (2):

(a) shall be granted and issued:

(i) by the commission in accordance with this section;

(ii) without a license fee; and

(iii) if:

(A) an applicant:

(I) states the applicant's name and address in the application; and

(II) provides other information in the application that the commission may require; and

(B) the person meets the requirements of this section to be granted a license as determined by the commission;

(b) may not be assigned to another person; and

(c) is valid:

(i) only for the person named on the license; and

(ii) until:

(A) the person described in Subsection (3)(c)(i):

(I) ceases to do business; or

(II) changes that person's business address; or

(B) the commission revokes the license.

(4) The commission shall review an application and determine whether:

(a) the applicant meets the requirements of this section to be issued a license; and

(b) a bond is required to be posted with the commission in accordance with Subsection (5) before the applicant may be issued a license.

(5) (a) An applicant shall post a bond with the commission before the commission may issue the applicant a license if:

(i) a license under this section was revoked for a delinquency under this part for:

(A) the applicant;

(B) a fiduciary of the applicant; or

(C) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this part; or

(ii) there is a delinquency in paying a tax under this part for:

(A) the applicant;

(B) a fiduciary of the applicant; or

(C) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this part.

(b) If the commission determines it is necessary to ensure compliance with this part, the commission may require a licensee to:

(i) for a licensee that has not posted a bond under this section with the commission, post a bond with the commission in accordance with Subsections (5)(c)

through (g); or

(ii) for a licensee that has posted a bond under this section with the commission, increase the amount of the bond posted with the commission.

(c) A bond under this Subsection (5) shall be:

(i) executed by:

(A) for an applicant, the applicant as principal, with a corporate surety; or

(B) for a licensee, the licensee as principal, with a corporate surety; and

(ii) payable to the commission conditioned upon the faithful performance of all of the requirements of this part including:

(A) the payment of all amounts under this part;

(B) the payment of any:

(I) penalty as provided in Section 59-1-401; or

(II) interest as provided in Section 59-1-402; or

(C) any other obligation of the:

(I) applicant under this part; or

(II) licensee under this part.

(d) Except as provided in Subsection (5)(f), the commission shall calculate the amount of a bond under this Subsection (5) on the basis of:

(i) commission estimates of:

(A) an applicant's liability for any amount under this part; or

(B) a licensee's liability for any amount under this part; and

(ii) the amount of a delinquency described in Subsection (5)(e) if:

(A) a license under this section was revoked for a delinquency under this part for:

(I) (Aa) an applicant; or

(Bb) a licensee;

(II) a fiduciary of the:

(Aa) applicant; or

(Bb) licensee; or

(III) a person for which the applicant, licensee, fiduciary of the applicant, or fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part; or

(B) there is a delinquency in paying an amount under this part for:

(I) (Aa) an applicant; or

(Bb) a licensee;

(II) a fiduciary of the:

(Aa) applicant; or

(Bb) licensee; or

(III) a person for which the applicant, licensee, fiduciary of the applicant, or fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part.

(e) Except as provided in Subsection (5)(f), for purposes of Subsection (5)(d)(ii):

(i) for an applicant, the amount of the delinquency is the sum of:

(A) the amount of any delinquency that served as a basis for revoking the license under this section of:

(I) the applicant;
(II) a fiduciary of the applicant; or
(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or
(B) the amount that any of the following owe under this part:
(I) the applicant;
(II) a fiduciary of the applicant; and
(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or
(ii) for a licensee, the amount of the delinquency is the sum of:
(A) the amount of any delinquency that served as a basis for revoking the license under this section of:
(I) the licensee;
(II) a fiduciary of the licensee; or
(III) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part; or
(B) the amount that any of the following owe under this part:
(I) the licensee;
(II) a fiduciary of the licensee; and
(III) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part.
(f) Notwithstanding Subsection (5)(d) or (e), a bond required by this Subsection (5) may not:
(i) be less than $10,000; or
(ii) exceed $500,000.
(g) (i) Subject to Subsection (5)(g)(ii), a bond required by this section may be combined into one bond with any other bond required by this chapter.
(ii) For purposes of Subsection (5)(g)(i), if a bond required by this section is combined into one bond with any other bond required by this chapter, the amount of that combined bond is determined by:
(A) calculating the separate amount of each bond required for each type of fuel included in the combined bond; and
(B) aggregating the separate amounts calculated in Subsection (5)(g)(ii)(A).
(6) (a) The commission shall revoke a license under this section if:
(i) a licensee violates any provision of this part; and
(ii) before the commission revokes the license the commission provides the licensee:
(A) reasonable notice; and
(B) a hearing.
(b) If the commission revokes a licensee's license in accordance with Subsection (6)(a), the commission may not issue another license to that licensee until that licensee complies with the requirements of this part, including:
(i) paying any:
(A) amounts due under this part;
(B) penalty as provided in Section 59-1-401; or

(C) interest as provided in Section 59-1-402; and

(ii) posting a bond in accordance with Subsection (5).

(7) (a) If any person ceases to be a supplier within the state by reason of the discontinuance, sale, or transfer of the person's business, the supplier shall notify the commission in writing at the time the discontinuance, sale, or transfer takes effect.

(b) The notice shall give the date of discontinuance and, in the event of a sale, the date of the sale and the name and address of the purchaser or transferee.

(c) Taxes on all special fuel delivery or removal made prior to the discontinuance, sale, or transfer, shall become due and payable on the date of discontinuance, sale, or transfer.

(d) The supplier shall make a report and pay all taxes, interest, and penalties and surrender to the commission the license certificate that was issued to the supplier by the commission.

(8) (a) The tax imposed by this part shall be a lien upon the property of any supplier liable for an amount of tax that is required to be collected, if the supplier sells the business, stock of goods, or quits business, and if the supplier fails to make a final return and payment within 15 days after the date of selling or quitting business.

(b) The successor or assigns, if any, shall be required to withhold a sufficient amount of the purchase money to cover the amount of the taxes that are required to be collected and interest or penalties due and paid under Sections 59-1-401 and 59-1-402 until the former owner produces a receipt from the commission showing that the taxes have been paid or a certificate stating that no amount of tax is due. If the purchaser of a business or stock of goods fails to withhold sufficient purchase money, the purchaser shall be personally liable for the payment of the amount that is due.

Amended by Chapter 382, 2008 General Session

59-13-303. Special fuel user permits -- Application -- Revocation of permits under certain circumstances.

(1) (a) Except as provided in Subsection (1)(b), each user shall, prior to the use of the fuel in a qualified motor vehicle, apply to the commission on forms prescribed by the commission for a special fuel user permit. When the application is approved by the commission, a single special fuel user permit shall be issued to the user.

(b) In place of the special fuel user permit issued under Subsection (1)(a), a user may purchase a special fuel user trip permit. A special fuel user trip permit is valid for 96 hours or until the qualified vehicle leaves the state, whichever occurs first.

(c) The fee for the special fuel user trip permit is $25.

(2) A special fuel user permit number shall be assigned to each licensed user and is nontransferable and valid until surrendered by the user for nonuse or until revoked by the commission.

(3) The special fuel user permit expires December 31 of each year. Special fuel user permits for the calendar year shall be honored until February 28 of the following year. An application shall be filed with the commission each year for a new special fuel user permit for vehicles operated by a licensed user.

(4) (a) The special fuel user permit shall be kept in the passenger compartment

of each vehicle, or as otherwise authorized by the commission.

(b) A user that does not comply with the requirements of this section may be required to purchase a special fuel user trip permit.

(5) The commission may revoke the special fuel user permit issued under this section from any person refusing or neglecting to comply with this part.

(6) Any user reporting Utah special fuel tax liability under Part 5, Interstate Agreements, is exempted from the permit requirements of this section.

Amended by Chapter 198, 2005 General Session

59-13-304. Inspection of clean fuel vehicles.

(1) The commission may require each clean fuel vehicle to be inspected for safe operation.

(2) Each clean fuel vehicle shall be equipped with an approved and properly installed carburetion system if it is powered by a fuel that is gaseous at standard atmospheric conditions.

Amended by Chapter 153, 2008 General Session

59-13-305. User report required -- Contents of report -- Signature -- Penalties -- Exemptions from requirements -- Change of exemption status -- Duty to notify commission.

(1) Unless exempted by Subsection (5), each user shall file with the commission, on or before the last day of the month following the end of a reporting period, a report on forms prescribed by the commission showing:

(a) the amount of fuel purchased and the amount of fuel used during the preceding reporting period by that user in the state; and

(b) any other information the commission may require to carry out the purposes of this part.

(2) The report shall be signed by the user or a responsible representative. This signature need not be notarized, but when signed is considered to have been made under oath.

(3) A penalty is imposed under Section 59-1-401 for failure to file reports as provided in this section for each report not filed, regardless of the imposition of other penalties under this part.

(4) (a) Each user that has a registered special fuel-powered motor vehicle other than a qualified motor vehicle and has facilities for bulk storage of special fuels shall declare special fuel tax liability for any nonqualified motor vehicle on the user report required by Subsection (1).

(b) Credit shall be given on the report for any special fuel taxes paid on purchases for any nonqualified vehicle. Purchase records must be maintained to substantiate the amount of any credit claimed.

(5) (a) The following users are exempt from the filing requirements of Subsections (1) and (2) for the motor vehicles specified:

(i) a user who purchases a special fuel user trip permit for all of its operations

for qualified vehicles for the reporting period, except a user having a special fuel user permit under Subsection 59-13-303(1)(a);

(ii) a user that has a registered special fuel-powered motor vehicle other than a qualified motor vehicle and does not have facilities for bulk storage of special fuels;

(iii) a user of special fuel, for which the tax imposed by this chapter has already been paid; or

(iv) a user that has a motor vehicle powered by special fuel for which the tax is paid under an interstate fuel tax agreement under Section 59-13-502.

(b) (i) The exemption under Subsection (5)(a)(iii) applies only when the user retains records verifying that all special fuel purchases for the exempt vehicle were taxed as required under this part.

(ii) The commission may at the time of application or renewal of a special fuel user permit under Section 59-13-303 require that the user certify:

(A) that the user qualifies for an exemption under Subsection (5)(a)(iii); and

(B) whether the user has facilities for bulk storage of special fuel.

Amended by Chapter 198, 2005 General Session

59-13-306. Due date of special fuel tax.

The special fuel tax is due and payable at the offices of the commission on or before the last day of the month following each reporting period. If not paid at the offices of the commission or if the envelope enclosing the report or remittance does not bear a post office cancellation mark dated on or before the due date, the special fuel tax is delinquent.

Enacted by Chapter 6, 1987 General Session

59-13-307. Supplier reports -- Signature required -- Penalties.

(1) Each supplier shall file with the commission, on or before the last day of each month, a report on forms prescribed by the commission showing the amount of fuel delivered or removed during the preceding calendar month and any other information the commission may require to carry out the purposes of this part.

(2) The report shall be signed by the supplier or a responsible representative. This signature need not be notarized, but when signed is considered to have been made under oath. The report shall be accompanied by a remittance payable to the commission for the amount of special fuel tax due.

(3) A penalty is imposed under Section 59-1-401 upon each licensee and bonded supplier who fails to file any report as prescribed regardless of the imposition of other penalties under this part.

Amended by Chapter 9, 2001 General Session

59-13-308. Delinquency -- Penalties -- Interest.

If any user becomes delinquent in tax payments under this part, all licenses or permits issued under this part are automatically revoked. In addition, the commission

shall impose a penalty determined under Section 59-1-401. The amount of the delinquent tax and the penalty shall bear interest at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 198, 2005 General Session

59-13-310. Special fuel from out of state -- Reports required -- Contents of reports.

(1) Every person who delivers special fuel from outside the state to any consignee within the state shall file with the commission on or before the last day of each month a report on forms prescribed by the commission showing:

(a) all deliveries of special fuel within the state during the preceding month; and

(b) the points of origin and original destination.

(2) Where any consignment of special fuel was diverted in transit and delivered within this state, the carrier making delivery of this consignment shall report to the commission:

(a) the place of the delivery of the consignment;

(b) to whom the consignment was delivered;

(c) the number of gallons of special fuel transported or delivered;

(d) the date of delivery and the name of the consignor and of the consignee; and

(e) any other information the commission may require.

Amended by Chapter 271, 1997 General Session

59-13-311. Tax is a lien against vehicle -- Removable only when tax is paid.

The special fuel tax constitutes a lien upon, and has the effect of an execution duly levied against, any vehicle in which special fuel is used. The lien may not be removed until the special fuel tax is paid or the vehicle subject to the lien is sold in payment of the tax.

Enacted by Chapter 6, 1987 General Session

59-13-312. Special fuel user records -- Auditing requirements -- Deposit of funds with treasurer as dedicated credits.

(1) (a) A user claiming a refund for taxes paid to a supplier shall retain on file a receipt or invoice, or a microfilm or microfiche of the receipt or invoice, evidencing the purchase of special fuel and the payment of the tax.

(b) The commission may require the user to furnish summaries or copies of original documentation substantiating the amount of refund claimed.

(2) If the payer of this tax or the person dealing in special fuel does not maintain records in this state so that an audit of the records may be made by the commission or its representative, that person may be required to:

(a) forward the necessary records to the commission for examination; or

(b) pay the necessary expenses for an auditor of the commission to travel to the location of the records outside of this state to make an examination.

(3) Funds collected under this section:

(a) shall be deposited with the state treasurer; and

(b) are dedicated credits for the commission.

Amended by Chapter 212, 2009 General Session

59-13-313. Commission to enforce the laws -- Estimations of tax -- Penalties -- Notice of determinations -- Information sharing with other states.

(1) (a) The commission is charged with the enforcement of this part and may prescribe rules relating to administration and enforcement of this part.

(b) The commission may coordinate with state and federal agencies in the enforcement of this part.

(c) Enforcement procedures may include checking diesel fuel dye compliance of storage facilities and tanks of vehicles, in a manner consistent with state and federal law.

(2) (a) If the commission has reason to question the report filed or the amount of special fuel tax paid to the state by a user or supplier, the commission may compute and determine the amount to be paid based upon the best information available to the commission.

(b) Any added amount of special fuel tax determined to be due under this section shall:

(i) have added to it a penalty as provided under Section 59-1-401; and

(ii) bear interest at the rate and in the manner prescribed in Section 59-1-402.

(c) (i) The commission shall give to the user or supplier written notice of the commission's determination.

(ii) The commission may:

(A) serve the notice described in Subsection (2)(c)(i) personally; or

(B) send the notice described in Subsection (2)(c)(i) to the user or supplier at the user or supplier's last-known address as it appears in the records of the commission.

(3) The commission may, upon the duly received request of the officials to whom the enforcement of the special fuel laws of any other state are entrusted, forward to those officials any information which the commission may have in its possession relative to the delivery, removal, production, manufacture, refining, compounding, receipt, sale, use, transportation, or shipment of special fuel by any person.

Amended by Chapter 212, 2009 General Session

59-13-314. Special fuel user permit required before registration of vehicle.

Before registering any motor vehicle which is operated by special fuels, the registered owner or lessee of the vehicle shall obtain a valid special fuel user permit for the current year if required under Section 59-13-303.

Amended by Chapter 153, 2008 General Session

59-13-315. Transfer of ownership of vehicle -- Lien to be removed -- Tax clearance by commission.

The transfer of registered ownership of any motor vehicle subject to a lien of the tax imposed by this part may be effected only after a certificate of clearance of the tax has been issued by the commission.

Enacted by Chapter 6, 1987 General Session

59-13-318. Refunds.

A refund that a taxpayer is allowed under this chapter shall be paid from the Transportation Fund.

Amended by Chapter 212, 2009 General Session

59-13-320. Penalties for violations of the special fuel tax provisions.

(1) The following offenses, unless otherwise provided, are class B misdemeanors:

(a) failing or refusing to pay the tax imposed by this part;

(b) engaging in business in this state as a supplier without being the holder of an uncancelled license to engage in this business;

(c) operating a motor vehicle, which requires special fuel, upon the highways of this state without a valid special fuel user permit;

(d) failing to make any of the reports required by this part;

(e) making any false statement in any application, report, or statement required by this part;

(f) refusing to permit the commission or any employee to examine records as provided by this part;

(g) failing to keep proper records of quantities of fuel received, produced, refined, manufactured, compounded, used, or delivered in this state as required by this part;

(h) making any false statement in connection with an application for the refund of any money or taxes provided in this part; or

(i) violating any of the provisions of this part for which no penalty is provided.

(2) Any person required to make, render, sign, or verify any report and who makes any false or fraudulent report with intent to defeat or evade the assessment required by law to be made, is subject to a criminal violation under Section 59-1-401.

(3) The remedies of the state are cumulative and no action taken by the commission or any of its officers to pursue any remedy may be construed to be an election on the part of the state to exclude any other allowed by law.

Amended by Chapter 7, 2003 General Session

59-13-320.5. Use of dyed diesel on highways prohibited -- Penalty.

(1) A person may not operate a motor vehicle on a highway if a fuel supply tank of the motor vehicle contains dyed diesel fuel, unless:

(a) permitted under federal law;

(b) (i) the motor vehicle is used on the highway only to travel from one parcel of land owned or operated by the owner to another parcel of land owned or operated by the owner; and

(ii) the motor vehicle's travel on the highway is necessary for furtherance of agricultural purposes; or

(c) the motor vehicle is special mobile equipment, as defined in Section 41-1a-102, including off-road motorized construction or maintenance equipment, that is only incidentally operated or moved on a highway in connection with a construction project.

(2) A person who violates Subsection (1) shall pay a penalty assessed by the commission as follows:

(a) the greater of $500 or $5 per gallon of dyed diesel fuel within each fuel supply tank of the motor vehicle, based on the maximum storage capacity of each fuel supply tank; or

(b) for a second and subsequent offense, the greater of $1,000 or $10 per gallon of dyed diesel fuel within each fuel supply tank of the motor vehicle, based on the maximum storage capacity of each fuel supply tank.

(3) The penalty imposed under this section:

(a) is in addition to any other taxes, interest, or penalties imposed under this chapter; and

(b) shall be deposited in the Transportation Fund.

(4) Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise the penalty imposed under this section.

Enacted by Chapter 29, 2001 General Session

59-13-321. Wholesaler option for rack distributions tax payments -- Notification -- Security.

(1) As used in this section "wholesaler" means a person who receives a rack distribution of diesel fuel from a supplier for purposes of resale.

(2) (a) Upon agreement of wholesaler and supplier, the payment of the taxes to the supplier under this part may be made on or before one business day prior to the time that the supplier is required to remit those taxes to the commission.

(b) The wholesaler shall provide written notification to the supplier of the wholesaler's intent to exercise the payment option under Subsection (2)(a) at least 30 days prior to the payment.

(c) The wholesaler's payment of the taxes under Subsection (2)(a) shall be made by electronic funds transfer.

(3) Upon the wholesaler's exercise of the payment option provided in Subsection (2), the supplier may require security for the payment of the taxes if no security exists between the wholesaler and the supplier.

(4) At the option of the supplier, the wholesaler's exercise of the payment option

provided under this section may be terminated if the wholesaler fails to:

(a) remit timely payment of the taxes as provided in Subsection (2); or

(b) provide security as provided in Subsection (3).

Enacted by Chapter 271, 1997 General Session

59-13-322. Refunds of tax due to fire, flood, storm, accident, crime, discharge in bankruptcy, or mixing of fuels -- Filing claims and affidavits -- Commission approval -- Rulemaking -- Appeals -- Penalties.

(1) (a) A retailer, wholesaler, licensed distributor, or licensed supplier, who without fault, sustains a loss or destruction of 7,000 or more gallons of diesel fuel in a single incident due to fire, flood, storm, accident, or the commission of a crime and who has paid or is required to pay the tax on the special fuel as provided by this part, is entitled to a refund or credit of the tax subject to the conditions and limitations provided under this section.

(b) The claimant shall file a claim for a refund or credit with the commission within 90 days of the incident.

(c) Any part of a loss or destruction eligible for indemnification under an insurance policy for the taxes paid or required on the loss or destruction of special fuel is not eligible for a refund or credit under this section.

(d) Any claimant filing a claim for a refund or credit shall furnish any or all of the information outlined in this section upon request of the commission.

(e) The burden of proof of loss or destruction is on the claimant who shall provide evidence of loss or destruction to the satisfaction of the commission.

(f) (i) The claim shall include an affidavit containing the:

(A) name of claimant;

(B) claimant's address;

(C) date, time, and location of the incident;

(D) cause of the incident;

(E) name of the investigating agencies at the scene;

(F) number of gallons actually lost from sale; and

(G) information on any insurance coverages related to the incident.

(ii) The claimant shall support the claim by submitting the original invoices or copy of the original invoices.

(iii) This original claim and all information contained in it constitutes a permanent file with the commission in the name of the claimant.

(2) (a) A retailer, wholesaler, licensed distributor, or licensed supplier who has paid the tax on special fuel as provided by this part is entitled to a refund for taxes paid on that portion of an account that:

(i) relates to 4,500 or more gallons of special fuel purchased in a single transaction for which no payment has been received; and

(ii) has been discharged in a bankruptcy proceeding.

(b) The claimant shall file a claim for refund with the commission within 90 days from the date of the discharge.

(c) Any claimant filing a claim for a refund shall furnish any or all of the

information outlined in this section upon request of the commission.

(d) The burden of proof of discharge is on the claimant who shall provide evidence of discharge to the satisfaction of the commission.

(e) The claim shall include an affidavit containing the following:

(i) the name of the claimant;

(ii) the claimant's address;

(iii) the name of the debtor that received a discharge in bankruptcy; and

(iv) the portion of the account that is subject to an order granting a discharge.

(f) The claimant shall support the claim by submitting:

(i) the original invoices or a copy of the original invoices; and

(ii) a certified copy of the notice of discharge.

(g) This original claim and all information contained in it constitutes a permanent file with the commission in the name of the claimant.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall promulgate rules for the allocation of the discharge under this Subsection (2) to maximize the claimant's refund amount.

(3) (a) Subject to the conditions and limitations of this section, a retailer, wholesaler, licensed distributor, or licensed supplier is entitled to a refund or credit of special fuel tax if:

(i) dyed diesel fuel or special fuel is mixed with special fuel; and

(ii) the retailer, wholesaler, licensed distributor, or licensed supplier:

(A) returns the mixed special fuel to the refinery for re-refining; and

(B) has paid the tax on the special fuel as provided by this part.

(b) The claimant shall file a claim for a refund or credit with the commission within 90 days of the date the special fuel was returned to the refinery for re-refinement.

(c) Any claimant filing a claim for a refund or credit shall furnish any or all of the information outlined in this section upon request of the commission.

(d) The burden of proof that the special fuel was returned to the refinery for re-refinement is on the claimant who shall provide evidence to the satisfaction of the commission that the special fuel was returned to the refinery for re-refinement.

(e) (i) The claim shall include an affidavit containing the:

(A) name of claimant;

(B) claimant's address;

(C) date, time, and location of the incident;

(D) nature of the incident; and

(E) number of gallons of special fuel actually required to be re-refined.

(ii) The claimant shall support the claim by submitting written verification from a refinery that:

(A) the special fuel mixed with the dyed diesel fuel or special fuel was returned to the refinery for re-refinement; and

(B) special fuel tax was paid on the returned special fuel.

(iii) The claim filed pursuant to Subsection (3)(b) and all information contained in it constitutes a permanent file with the commission in the name of the claimant.

(4) (a) Upon commission approval of the claim for a refund, the commission shall pay the amount found due to the claimant.

(b) The total amount of claims for refunds shall be paid from the Transportation Fund.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may:

(i) promulgate rules to enforce this part; and

(ii) refuse to accept unsubstantiated evidence for the claim.

(b) If the commission is not satisfied with the evidence submitted in connection with the claim, it may:

(i) reject the claim; or

(ii) require additional evidence.

(6) Any person aggrieved by the decision of the commission with respect to a refund or credit may file a request for agency action, requesting a hearing before the commission.

(7) (a) Any person who makes any false claim, report, or statement, either as claimant, agent, or creditor, with intent to defraud or secure a refund or credit to which the claimant is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged violations of this part.

(b) In addition to the penalties under Subsection (7)(a), the person may not receive any refund or credit as a claimant or as a creditor of a claimant for refund or credit for a period of five years.

Amended by Chapter 134, 2008 General Session
Amended by Chapter 382, 2008 General Session

59-13-401. Aviation fuel tax -- Rate.

(1) A tax is imposed upon aviation fuel at the rates provided in this section.

(2) Except as provided by Subsection (3), the tax on aviation fuel shall be 9 cents per gallon.

(3) Aviation fuel purchased for use by a federally certificated air carrier is subject to a tax of:

(a) 4 cents per gallon on aviation fuel purchased other than at an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; or

(b) 2.5 cents per gallon on aviation fuel purchased at an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises.

Amended by Chapter 222, 2009 General Session
Amended by Chapter 358, 2009 General Session

59-13-402. Revenue from taxes deposited with treasurer -- Credit to Aeronautics Restricted Account -- Purposes for which funds may be used -- Allocation of funds -- Reports -- Returns required.

(1) (a) All revenue received by the commission under this part shall be deposited daily with the state treasurer who shall credit all of the revenue collected to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the aviation fuel tax.

(c) Refunds to which taxpayers are entitled under this part shall be paid from the Transportation Fund.

(2) The state treasurer shall place an amount equal to the total amount received from the sale or use of aviation fuel in the Aeronautics Restricted Account created by Section 72-2-126.

(3) The tax imposed on each gallon of aviation fuel under Section 59-13-401 shall be allocated to the airport where the aviation fuel was sold and to aeronautical operations of the Department of Transportation as follows:

	Total Tax Allocated	Allocation to Airport	Allocation to Aeronautical Operations
(a) Tax on Each Gallon of Aviation Fuel Purchased for Use by a Federally Certificated Air Carrier Other than at an International Airport Located Within a County of the First Class that has a United States Customs Office on its Premises	$.04	$.03	$.01
(b) Tax on Each Gallon of Aviation Fuel Purchased for Use by a Certificated Air Carrier at an International Airport Located Within a County of the First Class that has a United States Customs Office on its Premises	$.025	$.015	$.01
(c) Tax on Each Gallon of Aviation Fuel Purchased for Use by a Person Other than a Federally Certificated Air Carrier at an International Airport Located Within a County of the First Class that has a United States Customs Office on its Premises	$.09	$.00	$.09

(d) Tax on Each Gallon of Aviation Fuel Purchased for Use by a Person Other than a Federally Certificated Air Carrier Other than at an International Airport Located Within a County of the First Class that has a United States Customs Office on its Premises	$.09	$.03	$.06

(e) The allocation to the publicly used airport may be used at the discretion of the airport's governing authority for the:

(i) construction, improvements, operation, and maintenance of publicly used airports in the state; and

(ii) payment of principal and interest on indebtedness incurred for the purposes described in Subsection (3)(e)(i).

(f) Upon appropriation by the Legislature, the allocation to aeronautical operations of the Department of Transportation shall be used as provided in the Aeronautics Restricted Account created by Section 72-2-126.

(4) (a) The commission shall require reports and returns from distributors, retail dealers, and users in order to enable the commission and the Department of Transportation to allocate the revenue to be credited to:

(i) the Aeronautics Restricted Account created by Section 72-2-126; and

(ii) the separate accounts of individual airports.

(b) (i) Except as provided by Subsection (4)(b)(ii), any unexpended amount remaining in the account of any publicly used airport on the first day of January, April, July, and October shall be paid to the authority operating the airport.

(ii) Aviation fuel tax allocated to any airport owned and operated by a city of the first class shall be paid to the city treasurer on the first day of each month.

(c) The state treasurer shall place aviation fuel tax collected on fuel sold at places other than publicly used airports in the Aeronautics Restricted Account created by Section 72-2-126.

Amended by Chapter 222, 2009 General Session
Amended by Chapter 358, 2009 General Session

59-13-403. Administration and penalties -- Bond requirements.

(1) All administrative and penalty provisions of Part 2, Motor Fuel, apply to the administration of Part 4, Aviation Fuel.

(2) Notwithstanding Subsection (1), a distributor is not required to furnish a bond if the distributor:

(a) meets the definition of distributor under Subsection 59-13-102(5)(d); and

(b) has an average tax liability of $500 or less per month.

Amended by Chapter 322, 2006 General Session

59-13-501. Interstate fuel tax agreements by commission -- Contents of

agreement -- Rulemaking power -- Legal remedies -- Conflicts.

(1) The commission may enter into cooperative agreements with other states for the exchange of information and auditing of users of motor fuel and special fuels used in fleets of motor vehicles operated or intended to operate interstate. Any agreement, arrangement, declaration, or amendment is not effective until stated in writing and filed with the commission.

(2) Any agreement may provide for:

(a) determining the base state for users;

(b) users' records requirements;

(c) audit procedures;

(d) exchange of information;

(e) persons eligible for tax licensing;

(f) defining qualified motor vehicles;

(g) determining if bonding is required;

(h) specifying reporting requirements and periods including defining uniform penalty and interest rates for late reporting;

(i) determining methods for collecting and forwarding of motor fuel and special fuel taxes and penalties to another jurisdiction; and

(j) any other provisions designed to facilitate the administration of the agreement.

(3) The commission may, as required by the terms of an agreement, forward to officers of another state any information in the commission's possession relative to the manufacture, receipts, sale, use, transportation, or shipment of motor fuel or special fuel by any person. The commission may disclose the location of officers, motor vehicles, and other real and personal property of users of motor fuel or special fuel to officers of another state.

(4) Any agreement may provide for each state to audit the records of persons based in the state, to determine if the motor fuel or special fuel taxes due each state are properly reported and paid. Each state shall forward the findings of the audits performed on persons based in the state to each state in which the person has taxable use of motor fuels and special fuels. For persons not based in this state and who have taxable use of motor fuels or special fuels in this state, the commission may serve the audit findings received from another state, in the form of an assessment, on the person as if the audit were conducted by the commission.

(5) Any agreement entered into pursuant to this section does not preclude the commission from auditing the records of any person covered by the provisions of this chapter.

(6) The legal remedies for any person served with an order or assessment under this section are as prescribed in this chapter.

(7) If the commission enters into any agreement under the authority of this section, and the provisions established in the agreement are in conflict with any rules promulgated by the commission, the agreement provisions prevail.

Enacted by Chapter 75, 1988 General Session

59-13-502. Interstate fuel tax agreements -- Compliance procedures.

(1) After the commission's membership in an agreement provided for under Section 59-13-501 becomes effective, a taxpayer shall, for vehicles powered by special fuel qualifying under the agreement, be required to pay the special fuel tax at the rate established under Part 3 in accordance with the provisions of the agreement.

(2) Any taxpayer who has vehicles, qualifying under an agreement entered into under this part, which operate on motor fuel as defined under Section 59-13-102, shall account for and pay tax on fuel used in those vehicles at the rate established under Part 2 in accordance with the agreement, and receive credit for taxes paid under Part 2 on purchases as provided for in the agreement.

(3) The statutory notice procedures of this chapter, penalty provisions of Section 59-1-401, and adjudicative procedures in Title 63G, Chapter 4, Administrative Procedures Act, are applicable to this part.

Amended by Chapter 382, 2008 General Session

59-14-101. Short title.

This chapter is known as the "Cigarette and Tobacco Tax and Licensing Act."

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-102. Definitions.

As used in this chapter:

(1) "Cigarette" means a roll for smoking made wholly or in part of tobacco:

(a) regardless of:

(i) the size of the roll;

(ii) the shape of the roll; or

(iii) whether the tobacco is:

(A) flavored;

(B) adulterated; or

(C) mixed with any other ingredient; and

(b) if the wrapper or cover of the roll is made of paper or any other substance or material except tobacco.

(2) "Cigarette rolling machine" means a device or machine that has the capability to produce at least 150 cigarettes in less than 30 minutes.

(3) "Cigarette rolling machine operator" means a person who:

(a) (i) controls, leases, owns, possesses, or otherwise has available for use a cigarette rolling machine; and

(ii) makes the cigarette rolling machine available for use by another person to produce a cigarette; or

(b) offers for sale, at retail, a cigarette produced from the cigarette rolling machine.

(4) "Consumer" means a person that is not required:

(a) under Section 59-14-201 to obtain a license under Section 59-14-202; or

(b) under Section 59-14-301 to obtain a license under Section 59-14-202.

(5) "Counterfeit cigarette" means:
(a) a cigarette that has a false manufacturing label; or
(b) a package of cigarettes bearing a counterfeit tax stamp.
(6) "Importer" means a person who imports into the United States, either directly or indirectly, a finished cigarette for sale or distribution.
(7) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity, or any other person doing business as a distributor or retailer of cigarettes on tribal lands located in the state.
(8) "Little cigar" means a roll for smoking:
(a) made wholly or in part of tobacco;
(b) that uses an integrated cellulose acetate filter or other similar filter; and
(c) that is wrapped in a substance:
(i) containing tobacco; and
(ii) that is not exclusively natural leaf tobacco.
(9) (a) Except as provided in Subsection (9)(b), "manufacturer" means a person who manufactures, fabricates, assembles, processes, or labels a finished cigarette.
(b) "Manufacturer" does not include a cigarette rolling machine operator.
(10) "Moist snuff" means tobacco that:
(a) is finely:
(i) cut;
(ii) ground; or
(iii) powdered;
(b) has at least 45% moisture content, as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
(c) is not intended to be:
(i) smoked; or
(ii) placed in the nasal cavity; and
(d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or distributed in single-use units, including:
(i) tablets;
(ii) lozenges;
(iii) strips;
(iv) sticks; or
(v) packages containing multiple single-use units.
(11) "Retailer" means a person that:
(a) sells or distributes a cigarette to a consumer in the state; or
(b) intends to sell or distribute a cigarette to a consumer in the state.
(12) "Stamp" means the indicia required to be placed on a cigarette package that evidences payment of the tax on cigarettes required by Section 59-14-205.
(13) (a) "Tobacco product" means a product made of, or containing, tobacco.
(b) "Tobacco product" includes:
(i) a cigarette produced from a cigarette rolling machine;
(ii) a little cigar; or
(iii) moist snuff.
(c) "Tobacco product" does not include a cigarette.

(14) "Tribal lands" means land held by the United States in trust for a federally recognized Indian tribe.

Amended by Chapter 148, 2013 General Session

59-14-103. Waiver or reduction of penalty.

The commission may, upon making a record of its actions, and upon reasonable cause shown, waive, reduce, or compromise any of the penalties or interest imposed under:

(1) Subsection 59-14-212(4)(b)(ii);
(2) Subsection 59-14-214(5)(b)(ii);
(3) Subsection 59-14-407(5)(b)(ii);
(4) Subsection 59-14-606(7)(b)(ii); or
(5) Subsection 59-14-608(1)(d).

Enacted by Chapter 164, 2011 General Session

59-14-201. License -- Application of part -- Fee -- Bond -- Exceptions.

(1) It is unlawful for any person in this state to manufacture, import, distribute, barter, sell, exchange, or offer cigarettes for sale without first having obtained a license issued by the commission under Section 59-14-202.

(2) Except for the tax rates described in Subsection 59-14-204(2), this part does not apply to a cigarette produced from a cigarette rolling machine.

(3) (a) A license may not be issued for the sale of cigarettes until the applicant has paid a license fee of $30 or a license renewal fee of $20, as appropriate.

(b) The fee for reinstatement of a license that has been revoked, suspended, or allowed to expire is $30.

(4) (a) A license may not be issued until the applicant files a bond with the commission. The commission shall determine the form and the amount of the bond, the minimum amount of which shall be $500. The bond shall be executed by the applicant as principal, with a corporate surety, payable to the state and conditioned upon the faithful performance of all the requirements of this chapter, including the payment of all taxes, penalties, and other obligations.

(b) An applicant is not required to post a bond if the applicant:

(i) purchases during the license year only products that have the proper state stamp affixed as required by this chapter; and

(ii) files an affidavit with the applicant's application attesting to this fact.

Amended by Chapter 148, 2013 General Session

59-14-202. Issuance of licenses -- Common carrier licenses -- Contents -- Valid for three years -- Revocation -- Distribution requirements.

(1) Cigarette licenses may be issued only to a person owning or operating the place or cigarette vending machine from which the cigarette sales are made.

(2) (a) A license is required for each separate place of business.

(b) A licensee shall notify the commission within 30 days in the event that it changes the location of the business.

(3) Applications for a license under this chapter shall be submitted on a form authorized by the commission. Each application shall state:

(a) the name and address of the applicant;

(b) the address of each place of business where the applicant's business will be conducted within this state; and

(c) any other information the commission may require relevant to license qualification.

(4) A common carrier is not required to obtain more than one license for sales on conveyances operated by that carrier within the state. All conveyances owned by a common carrier are considered as one place of business for the purpose of this chapter.

(5) No license may be granted, maintained, or renewed:

(a) if any combination of people owning directly or indirectly, in the aggregate, more than 10% of the ownership interests in the applicant:

(i) has been convicted of knowingly:

(A) selling stolen or counterfeit cigarettes;

(B) receiving stolen or counterfeit cigarettes; or

(C) being involved in the smuggling or counterfeiting of cigarettes;

(ii) is a cigarette manufacturer or importer that is not a:

(A) participating manufacturer as defined in subsection II(jj) of the "Master Settlement Agreement"; or

(B) in full compliance with the provisions of this chapter dealing with nonparticipating manufacturers;

(iii) has imported, or caused to be imported, into the United States any cigarette in violation of 19 U.S.C. 1681a; or

(iv) has imported, or caused to be imported into the United States, or manufactured for sale or distribution in the United States any cigarette that does not fully comply with the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1331, et. seq.; and

(b) until the applicant:

(i) has paid any delinquent cigarette taxes; and

(ii) has served the period of suspension resulting from any prior revoked license.

(6) Each license shall be numbered, show the residence and place of business of the licensee, and is nontransferable.

(7) (a) Each license is in effect for three years from the date of issuance, unless the license is earlier revoked by the commission.

(b) The license expires on the expiration date shown on the license, unless the licensee renews it in accordance with commission rules.

(c) The commission shall by rule establish procedures for the renewal and reinstatement of licenses.

(8) (a) In addition to any civil or criminal penalty provided by law, the commission shall, after providing notice and a hearing, revoke the license of any

person:

(i) found to have violated this title; or

(ii) who no longer qualifies for licensure under Subsection (5).

(b) In the case of a revocation under Subsection (8)(a)(i), a license may not be issued to that person within a period of two years after the violation.

(9) A licensee may not barter, sell, exchange, or offer for sale:

(a) cigarettes in an individual package or container that contains less than 20 cigarettes; or

(b) roll-your-own cigarettes in an individual package or container that contains less than 0.6 ounces of tobacco.

(10) (a) The commission shall maintain a list that includes the identity of all people licensed under this section.

(b) The list shall:

(i) include the type of license possessed; and

(ii) be updated by the commission at least once per quarter.

Amended by Chapter 217, 2004 General Session

59-14-203. Failure to obtain a license -- Penalty.

Any person engaging in the business of manufacturing, importing, distributing, or selling or offering to sell cigarettes without holding a valid license that is currently not suspended or revoked is guilty of a class B misdemeanor for each offense.

Amended by Chapter 217, 2004 General Session

59-14-203.5. Commission action to suspend or revoke license.

(1) (a) The commission shall suspend or revoke licenses to sell tobacco, as required under Section 26-42-103 regarding suspension or revocation of a license due to the sale of cigarettes to a person younger than 19 years of age, upon receipt of notice of an enforcing agency's finding of a violation of Section 26-42-103.

(b) The commission shall provide written notice of the suspension or revocation to the licensee.

(2) It is the duty of the enforcing agency to advise the commission of any finding of a violation of Section 26-42-103 for which suspension or revocation of the license is a penalty.

(3) When the commission revokes a licensee's license under this section the commission may not issue to the licensee, or to the business entity using the license that is revoked, a license under Section 59-14-202 or 59-14-301 to sell tobacco at the location for which the license was issued for one year after:

(a) the day on which the time for filing an appeal of the revocation ends; or

(b) if the revocation is appealed, the day on which the decision to uphold the revocation becomes final.

Amended by Chapter 96, 2011 General Session

59-14-204. Tax basis -- Rate -- Future increase -- Cigarette Tax Restricted Account -- Appropriation and expenditure of revenues.

(1) Except for cigarettes described under Subsection 59-14-210(3), there is levied a tax upon the sale, use, storage, or distribution of cigarettes in the state.

(2) The rates of the tax levied under Subsection (1) are, beginning on July 1, 2010:

(a) 8.5 cents on each cigarette, for all cigarettes weighing not more than three pounds per thousand cigarettes; and

(b) 9.963 cents on each cigarette, for all cigarettes weighing in excess of three pounds per thousand cigarettes.

(3) Except as otherwise provided under this chapter, the tax levied under Subsection (1) shall be paid by any person who is the manufacturer, jobber, importer, distributor, wholesaler, retailer, user, or consumer.

(4) The tax rates specified in this section shall be increased by the commission by the same amount as any future reduction in the federal excise tax on cigarettes.

(5) (a) There is created within the General Fund a restricted account known as the "Cigarette Tax Restricted Account."

(b) The Cigarette Tax Restricted Account consists of:

(i) the first $7,950,000 of the revenues collected from a tax under this section; and

(ii) any other appropriations the Legislature makes to the Cigarette Tax Restricted Account.

(c) For each fiscal year beginning with fiscal year 2011-12 and subject to appropriation by the Legislature, the Division of Finance shall distribute money from the Cigarette Tax Restricted Account as follows:

(i) $250,000 to the Department of Health to be expended for a tobacco prevention and control media campaign targeted towards children;

(ii) $2,900,000 to the Department of Health to be expended for tobacco prevention, reduction, cessation, and control programs;

(iii) $2,000,000 to the University of Utah Health Sciences Center for the Huntsman Cancer Institute to be expended for cancer research; and

(iv) $2,800,000 to the University of Utah Health Sciences Center to be expended for medical education at the University of Utah School of Medicine.

(d) In determining how to appropriate revenue deposited into the Cigarette Tax Restricted Account that is not otherwise appropriated under Subsection (5)(c), the Legislature shall give particular consideration to enhancing Medicaid provider reimbursement rates and medical coverage for the uninsured.

(e) Any program or entity that receives funding under Subsection (5)(c) shall provide an annual report to the Health and Human Services Interim Committee no later that September 1 of each year. The report shall include:

(i) the amount funded;

(ii) the amount expended;

(iii) a description of the effectiveness of the program; and

(iv) if the program is a tobacco cessation program, the report required in Section 51-9-203.

Amended by Chapter 341, 2012 General Session

59-14-204.5. Application of excise tax on tribal lands.

(1) (a) Cigarettes sold to or received by members of a federally recognized Indian tribe that are purchased or received on the tribal lands are not subject to the tax imposed by Section 59-14-204.

(b) Cigarettes exempt from tax under Section 5704, Internal Revenue Code, and distributed in accordance with federal regulations are not subject to the tax imposed by Section 59-14-204.

(2) (a) (i) The tax applicable to cigarettes sold to or received by nontribal members on tribal lands is equal to the state tax imposed by Section 59-14-204, minus any tribal tax actually paid.

(ii) For purposes of this section, nontribal members includes any person who is not a member of the Indian tribe that is selling the cigarettes.

(b) If the application of the tax offset for tribal taxes permitted in Subsection (2)(a) results in a negative balance, the taxes owed to the state are zero.

(c) (i) Cigarettes taxed pursuant to this Subsection (2) shall bear a tax stamp as required by Section 59-14-205 in an amount equal to the tax imposed by Section 59-14-204.

(ii) The commission shall at least semi-annually rebate to an Indian tribal entity that is in compliance with this chapter the lesser of:

(A) an amount equal to the tribal tax imposed on sales under this Subsection (2); or

(B) the face value of the tax stamps affixed to cigarettes sold under this Subsection (2).

Amended by Chapter 317, 2010 General Session

59-14-205. Stamping procedure -- Rules -- Exceptions -- Penalty -- Collection procedure.

(1) In the case of manufacturers, jobbers, importers, distributors, wholesalers, and retailers, the taxes imposed on cigarettes by this chapter shall be paid by affixing stamps in the manner and at the time prescribed in this section.

(2) All manufacturers, importers, distributors, wholesalers, and retailers shall securely affix the stamps to each individual package or container of cigarettes sold in the state, and may not sell or provide cigarette stamps to any other person.

(3) (a) Stamps shall be securely affixed to each individual package of cigarettes within 72 hours after the cigarettes are received within the state.

(b) All cigarettes shall be stamped before sale within the state.

(c) Cigarettes manufactured within the state shall be stamped by the manufacturer when and as sold.

(4) The commission may, if it is practical and reasonable for the enforcement of the collection of taxes, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to permit cigarettes to remain unstamped until the

original case or crate is broken, unpacked, or sold.

(5) The commission may permit a person to sell and export cigarettes to a regular dealer in cigarettes outside the state without affixing stamps.

(6) (a) If cigarettes are allowed to remain unstamped under Subsection (4) or (5), the commission may require the person holding the unstamped cigarettes to secure a surety bond from a surety company authorized to do business in this state.

(b) The surety bond described in Subsection (6)(a) shall be conditioned to secure the payment of all taxes and penalties provided in this chapter.

(7) A manufacturer, jobber, importer, distributor, wholesaler, or retailer may not remove, conceal, or obscure a cigarette package:

(a) notice described under Subsection 59-14-210(1)(a)(i); or

(b) warning label that is placed on the package in compliance with the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. Sec. 1333.

(8) (a) Any person failing to properly affix and cancel stamps to the cigarettes, under this section and rules promulgated by the commission, may be required by the commission to pay as part of the tax, and in addition to any other penalty provided in this chapter, a penalty of $25 for each offense, to be assessed and collected by the commission in accordance with Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

(b) Each article, package, or container found not having proper stamps affixed to the article, package, or container is a separate offense.

(c) The presence of any package or container in a place of business conducting retail sales shall be prima facie evidence that it is intended for sale and subject to taxes under this chapter.

Amended by Chapter 212, 2009 General Session

59-14-206. Sales of stamps -- Deposit of revenues -- Redemption of unused stamps -- Discount on lump purchases of stamps -- Unlawful acts.

(1) The commission may prepare stamps for use on packages and containers of cigarettes according to its specifications, designs, and denominations and shall keep an accurate record of all stamps for which the commission is responsible. The cost of the stamps shall be charged to any appropriation made to defray the costs of administering this chapter.

(2) The commission shall sell stamps only to persons holding licenses issued as provided in this chapter.

(a) The money received from the sale of the stamps, and all other money received from penalties, fees, and taxes provided by this chapter shall be deposited in the General Fund.

(b) The commission may deliver stamps in face value not to exceed 90% of the penal sum of the licensee's bond to any licensee without payment. The licensee shall pay for stamps within 60 days of the date the stamps were delivered on credit to the licensee.

(c) Unused stamps may be redeemed within three years of their purchase by presentation to the commission of a claim by the person to whom they were originally

sold. The redemption claim shall be accompanied by the unused stamps.

(d) The commission shall certify a redemption claim with its approval to the state auditor, who shall draw a warrant upon the state treasurer for the payment of the claim.

(3) The commission shall allow a discount of 4% upon the entire amount to each licensee for each single purchase of stamps amounting to $25 or more.

(4) It is unlawful for any person to sell or dispose of stamps to any other person. However, stamps may be distributed to the various places of sale by the main office whenever a person owns or operates more than one place of sale. Each place of sale shall have a separate license and cancellation stamp.

Amended by Chapter 330, 1997 General Session

59-14-207.5. Transactions only with licensed manufacturers, importers, distributors, and retailers.

(1) A manufacturer or importer may sell or distribute cigarettes to a licensee if that person is located or doing business in the state, including on any tribal lands located in the state.

(2) An importer may obtain cigarettes only from a licensed manufacturer.

(3) (a) A distributor may obtain cigarettes only from a licensed manufacturer, importer, or distributor.

(b) A distributor may sell or distribute cigarettes to a person who is a licensed distributor or retailer, if that person is located or doing business in the state, including on any tribal lands in the state.

(4) A retailer may obtain cigarettes only from a properly licensed person.

Enacted by Chapter 217, 2004 General Session

59-14-207.6. Unstamped cigarettes.

(1) A person who ships unstamped cigarette packages into the state, other than to a licensed manufacturer, importer, distributor, or retailer who is authorized to affix stamps, shall first file with the commission a notice of shipment.

(2) Subsection (1) does not apply to a common or contract carrier that is transporting cigarettes through this state to another location under a proper bill of lading or freight bill, which states the quantity, source, and destination of the cigarettes.

Enacted by Chapter 217, 2004 General Session

59-14-208. Rules for stamping and packaging procedures -- Penalty.

(1) The commission may by rule provide for the method of breaking packages, the forms and kinds of containers, and the method of affixing or cancelling stamps. These rules shall allow for the enforcement of payment by inspection.

(2) A person is guilty of a class B misdemeanor who:

(a) engages in or permits any practice which is prohibited by law and makes it difficult to enforce the provisions of this chapter by inspection;

(b) refuses to allow full inspection of his premises by any peace officer or of any

agent of the commission upon demand; or

(c) hinders or in any way delays or prevents inspection when the demand is made.

Amended by Chapter 305, 2008 General Session

59-14-208.5. Payment of cigarette tax by consumers.

(1) Except as provided in Subsection (4), in the case of consumers, the taxes imposed on cigarettes by this part shall be paid in the manner and at the time prescribed in this section.

(2) The payment shall be accompanied by a form prescribed by the commission.

(3) The payment shall be paid on or before the last day of the month immediately following the month during which the cigarettes were purchased.

(4) A consumer is not required to pay a cigarette tax under this section:

(a) on cigarettes that are stamped pursuant to Section 59-14-205; or

(b) if the consumer is a tourist who imports cigarettes for the tourist's own use or consumption while in the state.

(5) A consumer shall maintain records necessary to determine the amount of tax the consumer is liable to pay under this part for a period of three years following the date the return required by this part was filed.

(6) In addition to the tax required by this part, a consumer shall pay a penalty as provided in Section 59-1-401, plus interest at the rate and in the manner prescribed in Section 59-1-402, if a consumer subject to this section fails to:

(a) pay the tax prescribed by this part;

(b) pay the tax on time; or

(c) file a return required by this part.

(7) An overpayment of a tax imposed by this part shall accrue interest at the rate and in the manner prescribed in Section 59-1-402.

Enacted by Chapter 6, 2007 General Session

59-14-209. Penalty for willful violation -- Counterfeit cigarettes.

(1) A person is guilty of a third degree felony if the person:

(a) knowingly, or with intent to defraud the state violates Subsection 59-14-211(4);

(b) knowingly or willfully removes or otherwise prepares any adhesive stamp with the intent to use or cause to be used after it has already been used;

(c) knowingly or willfully buys, sells, offers for sale, or gives away any washed or restored stamp to any person;

(d) knowingly or willfully uses or has in his possession any washed or restored stamp that has been removed from the package or container to which it had been previously affixed;

(e) reuses any stamp that has already been used to pay a tax provided in this chapter, in order to indicate that person's payment of any tax; or

(f) buys, sells, or offers for sale or has in his possession any counterfeit stamp.

(2) In addition to any other provision of law, the sale or possession for sale of counterfeit cigarettes, as they are defined in Section 59-14-102, by a manufacturer, importer, distributor, or retailer shall result:

(a) in the seizure by the commission or law enforcement agency of the manufacturer's, importer's, distributor's, or retailer's:

(i) counterfeit cigarettes; and

(ii) any personal property used in direct connection with the sale or possession for sale of counterfeit cigarettes; and

(b) the forfeiture of the seized assets to the state.

Amended by Chapter 217, 2004 General Session

59-14-210. Prohibited sales of cigarettes.

(1) Except as provided in Subsection (3), a person licensed under Section 59-14-202 may not barter, sell, exchange, or offer for sale cigarettes:

(a) in a package which:

(i) bears a statement, label, stamp, sticker, or other notice that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States, including the following and similar notices:

(A) "For Export Only";

(B) "U.S. Tax-Exempt"; and

(C) "For Use Outside the U.S."; or

(ii) does not comply with federal law, including 15 U.S.C. 1333 of the Federal Cigarette Labeling and Advertising Act, regarding warning labels and other package information;

(b) imported to the United States in violation of 26 U.S.C. 5754;

(c) the licensee knows or has reason to know were not manufactured for sale, distribution, or use in the United States;

(d) for which a list of added ingredients has not been submitted to the federal Department of Health and Human Services pursuant to 15 U.S.C. 1335a of the Federal Cigarette Labeling and Advertising Act; or

(e) known by the licensee to be otherwise in violation of other related federal law.

(2) A person licensed under Section 59-14-202 may not barter, sell, exchange, or offer for sale cigarettes of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-22-203(3)(c).

(3) Subsection (1) does not apply to cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b) and any implementing regulations unless the cigarettes are brought back into the customs territory for resale within the customs territory.

Amended by Chapter 52, 2002 General Session

59-14-211. Penalties for dealing with prohibited cigarettes -- Private right of action.

(1) A person, regardless of whether the person is a licensee under Section 59-14-202, is guilty of a class B misdemeanor for each instance in which the person knowingly or with reason to know:

(a) sells or distributes cigarettes described under Section 59-14-210;

(b) acquires, holds, owns, possesses, transports, imports, or causes to be imported cigarettes:

(i) described under Section 59-14-210; and

(ii) intended for distribution or sale in the state;

(c) alters the package of any cigarettes prior to their sale or distribution to the ultimate consumer to remove, conceal, or obscure a notice, warning label, or other package information described in Subsection 59-14-210(1)(a); or

(d) affixes a stamp used to pay the tax imposed under Section 59-14-204, Part 3, Tobacco Products, or Part 4, Cigarettes and Tobacco Products, to a package or container of cigarettes:

(i) described under Section 59-14-210;

(ii) known by the person affixing the stamp to be altered as described under Subsection (1)(c); or

(iii) in violation of Section 59-14-604.

(2) If a person knowingly or with reason to know commits an act described in Subsections (1)(a) through (d), the commission shall:

(a) suspend or revoke a license issued to the person under Section 59-14-202; and

(b) regardless of whether the person is licensed under Section 59-14-202, impose a civil penalty in an amount not to exceed the greater of:

(i) 500% of the retail value of the cigarettes; or

(ii) $5,000.

(3) Any person whose commercial interests have been adversely affected as a result of a violation of this section may bring an action for injunctive relief, damages, or both.

(4) (a) The sale or possession for sale of counterfeit cigarettes by a manufacturer, importer, distributor, or retailer is punishable by a court of law as follows:

(i) a first violation involving a total quantity of less than 100 cartons of cigarettes is punishable by a fine in an amount the greater of $500 or five times the retail value of the cigarettes;

(ii) a subsequent violation involving a total quantity of less than 100 cartons of cigarettes is punishable by:

(A) the greater of a fine of $2,000 or five times the retail value of the cigarettes;

(B) imprisonment not to exceed one year; or

(C) both imprisonment and a fine imposed by this Subsection (4)(a)(ii); and

(D) the revocation by the commission of the manufacturer, importer, distributor, or retailer license for a period of up to two years;

(iii) a first violation involving a total quantity of 100 cartons of cigarettes or more is punishable by:

(A) the greater of a fine of $2,500 or five times the retail value of the cigarettes;

(B) imprisonment not to exceed five years; or

(C) both the fine and imprisonment imposed by this Subsection (4)(a)(iii);

(iv) a second violation involving a quantity of 100 cartons of cigarettes or more is punishable by:

(A) the greater of a fine of $10,000 or five times the retail value of the cigarettes;

(B) imprisonment not to exceed five years; or

(C) both the fine and imprisonment imposed by this Subsection (4)(a)(iv); and

(D) the revocation by the commission of the manufacturer, importer, distributor, or retailer license for a period of up to five years; and

(v) a third and subsequent violation involving a quantity of 100 cartons of cigarettes or more is punishable by:

(A) the greater of a fine of $25,000 or five times the retail value of the cigarettes;

(B) imprisonment not to exceed five years; or

(C) both the fine and imprisonment imposed by this Subsection (4)(a)(v); and

(D) the revocation by the commission of the manufacturer, importer, distributor, or retailer license for a period of up to five years; and

(b) any counterfeit cigarette seized by the commission shall be destroyed.

Amended by Chapter 204, 2005 General Session

59-14-212. Reporting of imported cigarettes -- Penalty.

(1) Except as provided under Subsection (2), any manufacturer, distributor, wholesaler, or retail dealer who under Section 59-14-205 affixes a stamp to an individual package or container of cigarettes imported to the United States shall provide to the commission the following as they pertain to the imported cigarettes:

(a) a copy of the importer's federal import permit;

(b) the customs form showing the tax information required by federal law;

(c) a statement signed under penalty of perjury by the manufacturer or importer that the manufacturer or importer has complied with:

(i) 15 U.S.C. 1333 of the Federal Cigarette Labeling and Advertising Act, regarding warning labels and other package information; and

(ii) 15 U.S.C. 1335a of the Federal Cigarette Labeling and Advertising Act, regarding reporting of added ingredients;

(d) the name of the person from whom the person affixing the stamp received the cigarettes;

(e) the name of the person to whom the person affixing the stamp delivered the cigarettes, unless the person receiving the cigarettes was the ultimate consumer;

(f) the quantity of cigarettes in the package or container; and

(g) the brand and brand style of the cigarettes.

(2) Subsection (1) does not apply to cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b) and any implementing regulations unless the cigarettes are brought back into the customs territory for resale within the customs territory.

(3) The information under Subsection (1) shall be provided on a quarterly basis

on forms specified by the agency.

(4) A person who fails to comply with the reporting requirement or provides false or misleading information under Subsection (1):

(a) is guilty of a class B misdemeanor; and

(b) may be subject to:

(i) revocation or suspension of a license issued under Section 59-14-202; and

(ii) a civil penalty imposed by the commission in an amount not to exceed the greater of:

(A) 500% of the retail value of the cigarettes for which a report was not properly made; or

(B) $5,000.

(5) The information under Subsection (1) may be disclosed by the commission as provided under Subsection 59-1-403(3)(g).

Amended by Chapter 322, 2007 General Session

59-14-213. Contraband goods.

(1) Any cigarettes in violation of the requirements of this chapter or of any state or federal law, including Sections 59-14-203, 59-14-205, 59-14-209, 59-14-211, Subsection 59-14-212(1), or Section 59-14-214 are contraband goods and may be seized without a warrant by the commission, its employees, or any peace officer of the state or its political subdivisions.

(2) Any goods seized pursuant to Subsection (1) shall be delivered to the commission and destroyed.

(3) Any cigarettes, as defined in Subsection 59-22-202(4), in violation of Section 59-14-604 are contraband goods and may be seized in accordance with Subsections (1) and (2).

Amended by Chapter 204, 2005 General Session

59-14-214. Nonparticipating manufacturer equity assessment.

(1) As used in this section, "nonparticipating manufacturer" means a tobacco product manufacturer, as defined in Section 59-22-202, that is not a participating manufacturer within the meaning of Subsection II(jj) of the Master Settlement Agreement, as defined in Section 59-22-202.

(2) (a) There is levied an equity assessment, at the rate of 1.75 cents on each cigarette, for all cigarette packages of nonparticipating manufacturers to which a stamp is affixed as required under Section 59-14-205.

(b) The equity assessment imposed by this section is in addition to all other assessments, fees, and taxes levied under existing law.

(c) The equity assessment imposed by this section shall be paid by affixing a stamp in the manner and at the time described in Section 59-14-205.

(d) Except as otherwise provided in this section, the equity assessment shall be collected, paid, administered, and enforced in the same manner as the tax on cigarettes levied by Section 59-14-204.

(3) The purposes of this equity assessment are:

(a) to recover health care costs to the state imposed by nonparticipating manufacturers;

(b) to prevent nonparticipating manufacturers from undermining the state's policy of reducing underage smoking by offering cigarettes for sale substantially below the prices of cigarettes of other manufacturers;

(c) to protect funding, which is reduced as a result of the growth of nonparticipating manufacturer cigarette sales, for programs funded in whole or in part by payments to the state under the Master Settlement Agreement, as defined in Section 59-22-202;

(d) to recoup settlement-payment revenue lost to the state as a result of nonparticipating manufacturer cigarette sales; and

(e) to fund enforcement and administration of:

(i) Chapter 14, Part 6, Tobacco Manufacturer Stamping Enforcement Provisions;

(ii) Sections 59-22-201 through 59-22-203, related to nonparticipating manufacturers; and

(iii) the equity assessment imposed by this section.

(4) Each manufacturer, distributor, wholesaler, or retail dealer who under Section 59-14-205 affixes a stamp to a package of cigarettes, shall report quarterly to the commission for each place of business, the number and denominations of stamps affixed to individual packages of nonparticipating manufacturer cigarettes sold by the manufacturer, distributor, wholesaler, or retail dealer in the preceding quarter, including the manufacturer and brand family.

(5) A person required to file a report under this section who fails to timely file the report, or who provides false or misleading information on, or in relation to, the report:

(a) is guilty of a class B misdemeanor; and

(b) is subject to:

(i) revocation or suspension of a license under Part 2, Cigarettes; and

(ii) a civil penalty, imposed by the commission, in an amount that does not exceed the greater of:

(A) 500% of the retail value of the cigarettes for which an accurate report was not filed; or

(B) $5,000.

Amended by Chapter 148, 2013 General Session

59-14-215. Transitional inventory tax on cigarettes -- Penalties and interest for failure to comply -- Credit or refund for outdated, unaffixed stamps.

(1) In addition to the tax described in Section 59-14-204, there is imposed, beginning on July 1, 2010, an inventory tax on all cigarettes subject to the tax described in Section 59-14-204, upon the sale, use, storage, or distribution of those cigarettes in the state, as follows:

(a) the tax imposed in this section applies only to cigarettes sold, used, stored, or distributed in the state on or after July 1, 2010:

(i) that have a stamp that reflects that the tax paid on those cigarettes was paid

at the tax rate imposed under Section 59-14-204 that was applicable on June 30, 2010; and

(ii) for which the tax imposed in this section has not been paid; and

(b) the tax imposed in this section is equal to the difference between:

(i) the tax imposed on those cigarettes under Section 59-14-204, beginning on July 1, 2010; and

(ii) the tax imposed on those cigarettes under Section 59-14-204 on or before June 30, 2010.

(2) Except as otherwise provided under this chapter, the tax imposed under this section shall be paid by any person who is the manufacturer, jobber, importer, distributor, wholesaler, or retailer.

(3) A person described in Subsection (2) shall remit the tax imposed in this section, on a return prescribed by the commission, on or before July 31, 2010.

(4) Failure of a person to comply with the requirements of this section subjects the person to the penalties and interest described in Sections 59-1-401 and 59-1-402.

(5) The commission may not waive the interest or penalties imposed on a person for failure to comply with the requirements of this section.

(6) (a) Beginning on July 1, 2010, it is unlawful to affix a stamp to cigarettes that reflects payment of the tax imposed under Section 59-14-204 at the rate that was applicable on or before June 30, 2010.

(b) A person who violates Subsection (6)(a) may be required by the commission to pay as part of the tax, and in addition to any other penalty provided in this chapter, a penalty of $25 for each offense, to be assessed and collected by the commission in accordance with Chapter 1, Part 14, Assessment, Collections, and Refunds Act.

(c) A person who, on or after July 1, 2010, possesses tax stamps described in Subsection (6)(a) may return the stamps to the commission for a credit or refund.

Amended by Chapter 407, 2010 General Session, (Coordination Clause)
Enacted by Chapter 415, 2010 General Session

59-14-301. Registration and licensing -- Fee -- Bond exceptions.

(1) All manufacturers and distributors of all tobacco products, as defined in Section 59-14-102, who are responsible for the collection of tax on tobacco products under this chapter, and all retailers of all tobacco products:

(a) shall register with the commission;

(b) shall be licensed by the commission under Part 2, Cigarettes; and

(c) are subject to the requirements, procedures, and penalties described in Part 2, Cigarettes.

(2) A fee may not be charged for registration and licensing of manufacturers, jobbers, distributors, or retailers of tobacco products in addition to the cigarette license if such a license is required.

(3) The commission shall require any manufacturer, wholesaler, retailer, or any other person subject to this section, and who is responsible for the collection of tax on tobacco products under this chapter, to post a bond as a prerequisite to registering. The bond shall be in a form and an amount determined by the commission. If the bond

is required under Section 59-14-201, the bond may be a combination, the minimum amount of which shall be $1,000.

Amended by Chapter 96, 2011 General Session

59-14-301.5. Commission action to suspend or revoke license.

(1) (a) The commission shall suspend or revoke licenses to sell tobacco, as required under Section 26-42-103 regarding suspension or revocation of a license due to the sale of tobacco products to a person younger than 19 years of age, upon receipt of notice of an enforcing agency's order or order of default, finding a violation of Section 26-42-103.

(b) The commission shall provide written notice of the suspension or revocation to the licensee.

(2) It is the duty of the enforcing agency to advise the commission of any order or order of default finding a violation of Section 26-42-103, for which suspension or revocation of the license is a penalty.

(3) When the commission revokes a licensee's license under this section the commission may not issue to the licensee, or to the business entity using the license that is revoked, a license under Section 59-14-202 or 59-14-301 to sell tobacco at the location for which the license was issued for one year after:

(a) the day on which the time for filing an appeal of the revocation ends; or

(b) if the revocation is appealed, the day on which the decision to uphold the revocation becomes final.

Amended by Chapter 96, 2011 General Session

59-14-302. Tax basis -- Rates.

(1) As used in this section:

(a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco product charges after subtracting a discount.

(b) "Manufacturer's sales price" includes an original Utah destination freight charge, regardless of:

(i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or

(ii) who pays the original Utah destination freight charge.

(2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

(3) (a) Subject to Subsection (3)(b), the tax levied under Subsection (2) shall be paid by the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.

(b) The tax levied under Subsection (2) on a cigarette produced from a cigarette rolling machine shall be paid by the cigarette rolling machine operator.

(4) For tobacco products except for moist snuff, a little cigar, or a cigarette produced from a cigarette rolling machine, the rate of the tax under this section is .86 multiplied by the manufacturer's sales price.

(5) (a) Subject to Subsection (5)(b), the tax under this section on moist snuff is imposed:

(i) at a rate of $1.83 per ounce; and

(ii) on the basis of the net weight of the moist snuff as listed by the manufacturer.

(b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce, a proportionate amount of the tax described in Subsection (5)(a) is imposed:

(i) on that fractional part of one ounce; and

(ii) in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) A little cigar is taxed at the same tax rates as a cigarette is taxed under Subsection 59-14-204(2).

(b) (i) Subject to Subsection (6)(b)(ii), a cigarette produced from a cigarette rolling machine is taxed at the same tax rates as a cigarette is taxed under Subsection 59-14-204(2).

(ii) A tax under this Subsection (6)(b) is imposed on the date the cigarette is produced from the cigarette rolling machine.

(7) (a) Moisture content of a tobacco product is determined at the time of packaging.

(b) A manufacturer who distributes a tobacco product in, or into, Utah, shall:

(i) for a period of three years after the last day on which the manufacturer distributes the tobacco product in, or into, Utah, keep valid scientific evidence of the moisture content of the tobacco product available for review by the commission, upon demand; and

(ii) provide a document, to the person described in Subsection (3) to whom the manufacturer distributes the tobacco product, that certifies the moisture content of the tobacco product, as verified by the scientific evidence described in Subsection (7)(b)(i).

(c) A manufacturer who fails to comply with the requirements of Subsection (7)(b) is liable for the nonpayment or underpayment of taxes on the tobacco product by a person who relies, in good faith, on the document described in Subsection (7)(b)(ii).

(d) A person described in Subsection (3) who is required to pay tax on a tobacco product:

(i) shall, for a period of three years after the last day on which the person pays the tax on the tobacco product, keep the document described in Subsection (7)(b)(ii) available for review by the commission, upon demand; and

(ii) is not liable for nonpayment or underpayment of taxes on the tobacco product due to the person's good faith reliance on the document described in Subsection (7)(b)(ii).

Amended by Chapter 189, 2014 General Session

59-14-303. Remittance of tax -- Returns -- Invoice required -- Filing requirements -- Reports -- Exceptions -- Penalties -- Overpayments.

(1) The taxes imposed on all tobacco products shall be remitted to the commission together with quarterly returns as prescribed by the commission. These returns shall be due and payable to the commission quarterly on or before the last day of the month following each calendar quarterly period.

(2) Every manufacturer, wholesaler, retailer, or any other person selling tobacco products to persons other than ultimate consumers shall furnish with each sale an itemized invoice showing the seller's name and address, the name and address of the purchaser, the date of sale, the name and price of the product, and the discount, if any. A notation should be made that the price includes or does not include the tax. Copies of this invoice shall be retained by the seller and the purchaser and shall be available for inspection by the commission or its agent for a period of three years following the sale.

(3) (a) A consumer who purchases untaxed products subject to the tax imposed by this part for use or other consumption, shall file with the commission, on forms prescribed by the commission, a statement showing the quantity and description of the products and pay the tax imposed by this part on those products.

(b) The statement described in Subsection (3)(a) shall be filed and the tax paid on or before the last day of the month immediately following the month during which the tobacco products were purchased.

(c) A consumer shall maintain records necessary to determine the amount of tax the consumer is liable to pay under this part for a period of three years following the date the return required by this part was filed.

(4) No report is required from tourists who import any products taxed by this part if the products are for their own use or consumption while in this state.

(5) In addition to the tax required by this part, a person shall pay a penalty as provided in Section 59-1-401, plus interest at the rate and in the manner prescribed in Section 59-1-402, if a person subject to this section fails to:

(a) pay the tax prescribed by this part;

(b) pay the tax on time; or

(c) file a return required by this part.

(6) An overpayment of a tax imposed by this part shall accrue interest at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 6, 2007 General Session

59-14-304. Transitional inventory tax on tobacco products -- Penalties and interest for failure to comply.

(1) In addition to the tax described in Section 59-14-302, there is imposed, beginning on July 1, 2010, an inventory tax on all tobacco products subject to the tax described in Section 59-14-302, upon the sale, use, or storage of those tobacco products in the state, as follows:

(a) the tax imposed in this section applies only to tobacco products sold, used, or stored in the state on or after July 1, 2010:

(i) for which the tax was paid at the tax rate imposed under Section 59-14-302 that was applicable on June 30, 2010; and

(ii) for which the tax imposed in this section has not been paid; and

(b) the tax imposed in this section is equal to the difference between:

(i) the tax imposed on those tobacco products under Section 59-14-302, beginning on July 1, 2010; and

(ii) the tax imposed on those tobacco products under Section 59-14-302 on or before June 30, 2010.

(2) The tax imposed in this section shall be paid by the manufacturer, jobber, distributor, wholesaler, or retailer.

(3) A person described in Subsection (2) shall remit the tax imposed in this section, in a return prescribed by the commission, on or before July 31, 2010.

(4) Failure of a person to comply with the requirements of this section subjects the person to the penalties and interest described in Sections 59-1-401 and 59-1-402.

(5) The commission may not waive the interest or penalties imposed on a person for failure to comply with the requirements of this section.

Amended by Chapter 407, 2010 General Session, (Coordination Clause)
Enacted by Chapter 415, 2010 General Session

59-14-305. Credit or refund for cigarette rolling machine operator.

(1) A cigarette rolling machine operator may claim a credit or refund on a return filed under Section 59-14-303 as provided in this section if:

(a) a person pays a tax under this chapter on tobacco that the person sells or provides to the cigarette rolling machine operator; and

(b) the cigarette rolling machine operator pays a tax under Section 59-14-302 on the tobacco that the cigarette rolling machine operator:

(i) purchases or is provided with under Subsection (1)(a); and

(ii) uses to produce a cigarette from the cigarette rolling machine.

(2) The credit under this section is the lesser of:

(a) the tax paid under Subsection (1)(a); or

(b) the tax paid under Subsection (1)(b).

(3) A cigarette rolling machine operator that claims a credit or refund under this section shall:

(a) keep in a form prescribed by the commission books and records that are necessary to establish the tax paid under Subsection (1)(a) and the tax paid under Subsection (1)(b) for purposes of calculating the credit or refund the cigarette rolling machine operator may claim;

(b) keep the books and records described in Subsection (3)(a) for the time period during which an assessment may be made under Section 59-1-1408; and

(c) open the books and records for examination at any time by:

(i) the commission; or

(ii) an agent or representative the commission designates.

Enacted by Chapter 148, 2013 General Session

59-14-401. Refund of taxes paid -- Exemption for exported cigarettes and tobacco products.

(1) (a) When any cigarette or tobacco product taxed under this chapter is sold and shipped to a regular dealer in those articles in another state, the seller in this state shall be entitled to a refund of the actual amount of the taxes paid, upon condition that

the seller in this state:

(i) is a licensed dealer;

(ii) signs an affidavit that the cigarette or tobacco product was so sold and shipped;

(iii) furnishes from the purchaser a written acknowledgment that the purchaser has received:

(A) the cigarette or tobacco product; and

(B) the amount of any stamps for which a refund is requested;

(iv) reports the name and address of the purchaser; and

(v) reports the name of the manufacturer of the cigarette, as defined under Section 59-22-202, reported under Section 59-14-407 if the cigarette is manufactured by a manufacturer required to place funds into escrow under Section 59-22-203.

(b) The taxes shall be refunded in the manner provided in Subsection 59-14-206(2) for unused stamps.

(2) Wholesalers or distributors in this state who export taxable cigarettes and tobacco products to a regular dealer in another state shall be exempt from the payment of any tax upon the sale of the articles upon furnishing such proof of the sale and exportation as the commission may require.

Amended by Chapter 229, 2000 General Session

59-14-402. Reports of imports and exports of taxable cigarettes and tobacco products.

Every common carrier hauling, transporting, or shipping into or out of the state any taxable cigarettes or tobacco products from or to any other state or foreign country shall, when required by the commission, report in writing to the commission all those shipments or deliveries on blanks furnished by the commission. The report shall give the date, to whom the products were consigned and delivered, the quantity as shown by the bill of lading, and any other information the commission may require. The commission is expressly authorized to exact this information from common carriers.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-403. Duplicate invoice requirements -- Failure to comply -- Penalties.

All persons dealing in taxable cigarettes or tobacco products, who purchase or receive these commodities from outside the state, whether the product is delivered through a wholesaler or distributor in this state, or by drop shipment or otherwise, shall mail or deliver a duplicate invoice of all those purchases or receipts to the commission within 10 days after receipt of the commodities if requested by the commission. Failure to furnish duplicate invoices or receipts as requested is subject to the penalties provided under Section 59-1-401.

Renumbered and Amended by Chapter 2, 1987 General Session
Renumbered and Amended by Chapter 3, 1987 General Session

59-14-404. Administration of chapter by commission.

The commission shall administer and enforce the taxes imposed by this chapter and may:

(1) enter upon the premises of any taxpayer and examine or cause to be examined by any agent or representative designated by it for that purpose, any books, papers, records, or memoranda bearing upon the taxes; and

(2) secure any other information directly or indirectly concerned in the enforcement of this chapter.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-406. Assistance for commission.

The commission may call to its aid the attorney general, any city, county, or district attorney, or any peace officer to enforce any tax laws which it administers.

Amended by Chapter 38, 1993 General Session

59-14-407. Reporting of manufacturer name.

(1) As used in this section:

(a) "Cigarette" has the same meaning as defined in Section 59-22-202.

(b) "Tobacco product manufacturer" has the same meaning as defined in Section 59-22-202.

(2) Any manufacturer, distributor, wholesaler, or retail dealer who under Section 59-14-205 affixes a stamp to an individual package or container of cigarettes manufactured or sold by a tobacco product manufacturer required to place funds into escrow under Section 59-22-203 shall report quarterly to the commission:

(a) the quantity of cigarettes in the package or container; and

(b) the name of the manufacturer of the cigarettes.

(3) Any manufacturer, distributor, wholesaler, retail dealer, or other person who is required to pay the tax levied under Part 3, Tobacco Products, on a tobacco product defined as a cigarette under Section 59-22-202 and manufactured or sold by a tobacco product manufacturer required to place funds into escrow under Section 59-22-203 shall report quarterly to the commission:

(a) the quantity of cigarettes upon which the tax is levied; and

(b) the name of the manufacturer of each cigarette.

(4) The reports under Subsections (2) and (3) shall be made no later than quarterly on or before the last day of the month following each calendar quarterly period pursuant to rules established by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) A person required to file a report under this section who fails to timely file the report, or who provides false or misleading information on, or in relation to, the report:

(a) is guilty of a class B misdemeanor; and

(b) is subject to:

(i) revocation or suspension of a license under Part 2, Cigarettes, and Part 3, Tobacco Products; and

(ii) a civil penalty, imposed by the commission, in an amount that does not exceed the greater of:
(A) 500% of the retail value of the cigarettes and tobacco products for which an accurate report was not filed; or
(B) $5,000.

Amended by Chapter 164, 2011 General Session

59-14-409. Definitions -- Credit or refund for tax paid on cigarette or tobacco product that is destroyed or returned to the manufacturer -- Interest -- Rulemaking authority.

(1) As used in this section, "licensed person" means a person:
(a) licensed by the commission in accordance with Section 59-14-202; and
(b) that is a:
(i) distributor;
(ii) jobber;
(iii) manufacturer;
(iv) retailer;
(v) wholesaler; or
(vi) a person similar to a person described in Subsections (1)(b)(i) through (v) as determined by the commission by rule.
(2) A licensed person may apply to the commission for a credit or refund as provided in Subsection (3) if:
(a) on or after July 1, 2005, the following are removed from retail sale or from storage:
(i) a cigarette; or
(ii) a tobacco product;
(b) before a cigarette or tobacco product is removed from retail sale or from storage in accordance with Subsection (2)(a), the licensed person remits a tax:
(i) to the commission;
(ii) on the:
(A) cigarette; or
(B) tobacco product; and
(iii) in accordance with:
(A) Part 2, Cigarettes; or
(B) Part 3, Tobacco Products; and
(c) the licensed person verifies to the commission that the cigarette or tobacco product described in Subsection (2)(a) has been:
(i) returned to the manufacturer of the cigarette or tobacco product; or
(ii) destroyed.
(3) The amount of the credit or refund described in Subsection (2) is equal to:
(a) for a cigarette removed from retail sale or from storage, the amount of tax the licensed person paid on the cigarette in accordance with Part 2, Cigarettes; or
(b) for a tobacco product removed from retail sale or from storage, the amount of tax the licensed person paid on the tobacco product in accordance with Part 3,

Tobacco Products.

(4) (a) The commission shall grant a credit or refund under this section if the commission determines that a licensed person meets the requirements of Subsection (2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules establishing procedures and requirements for a licensed person to verify to the commission that a cigarette or tobacco product described in Subsection (2)(a) has been:

(i) returned to the manufacturer of the cigarette or tobacco product; or

(ii) destroyed.

(5) (a) If the commission makes a credit or refund under this section within a 90-day period after the day on which a licensed person submits an application to the commission for the credit or refund, interest may not be added to the amount of credit or refund.

(b) If the commission makes a credit or refund under this section more than 90 days after the day on which a licensed person submits an application to the commission for the credit or refund, interest shall be added to the amount of credit or refund as provided in Section 59-1-402.

(6) (a) The commission may create a form for:

(i) a licensed person to:

(A) submit a claim for a credit or refund; or

(B) verify to the commission that a cigarette or tobacco product has been:

(I) returned to the manufacturer of the cigarette or tobacco product; or

(II) destroyed; or

(ii) processing a claim for a credit or refund for payment.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining a person similar to a person described in Subsections (1)(b)(i) through (v).

Amended by Chapter 382, 2008 General Session

59-14-410. Action for collection of tax -- Action for refund or credit of tax.

(1) (a) Except as provided in Subsections (2) through (5), the commission shall assess a tax under this chapter within three years after a taxpayer files a return.

(b) Except as provided in Subsections (2) through (5), if the commission does not assess a tax under this chapter within the three-year period provided in Subsection (1)(a), the commission may not commence a proceeding to collect the tax.

(2) The commission may assess a tax at any time if a taxpayer:

(a) files a false or fraudulent return with intent to evade; or

(b) does not file a return.

(3) The commission may extend the period to make an assessment or to commence a proceeding to collect the tax under this chapter if:

(a) the three-year period under Subsection (1) has not expired; and

(b) the commission and the taxpayer sign a written agreement:

(i) authorizing the extension; and

(ii) providing for the length of the extension.

(4) If the commission delays an audit at the request of a taxpayer, the commission may make an assessment as provided in Subsection (5) if:

(a) the taxpayer subsequently refuses to agree to an extension request by the commission; and

(b) the three-year period under Subsection (1) expires before the commission completes the audit.

(5) An assessment under Subsection (4) shall be:

(a) for the time period for which the commission could not make an assessment because of the expiration of the three-year period; and

(b) in an amount equal to the difference between:

(i) the commission's estimate of the amount of tax the taxpayer would have been assessed for the time period described in Subsection (5)(a); and

(ii) the amount of tax the taxpayer actually paid for the time period described in Subsection (5)(a).

(6) (a) Except as provided in Subsection (6)(b), the commission may not make a credit or refund unless the taxpayer files a claim with the commission within three years of the date of overpayment.

(b) The commission shall extend the period for a taxpayer to file a claim under Subsection (6)(a) if:

(i) the three-year period under Subsection (6)(a) has not expired; and

(ii) the commission and the taxpayer sign a written agreement:

(A) authorizing the extension; and

(B) providing for the length of the extension.

Enacted by Chapter 6, 2007 General Session

59-14-501. Warning labels required.

(1) All smokeless tobacco products sold within the state shall be affixed with an adhesive warning label which states: "Use of this product may cause oral cancer and other mouth disorders and is addictive." As used in this part, "smokeless tobacco products" means chewing tobacco and snuff.

(2) The distributor, wholesaler, or manufacturer of smokeless tobacco products shall provide and pay for warning labels in accordance with specifications adopted by the Department of Health.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-502. Requirements for placement of warning labels.

Warning labels shall be securely affixed to each individual package of smokeless tobacco products within 72 hours after receipt of the products by any wholesaler, distributor, or retailer within this state. All smokeless tobacco products shall be affixed with warning labels before sale within the state. If any smokeless tobacco products are manufactured within the state, they shall be affixed with warning labels by the manufacturer when sold.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-503. Authority of commission.

The commission may adopt rules which permit smokeless tobacco products without affixed warning labels to remain in the hands of a wholesaler or distributor until the original case or crate is broken, unpacked, or sold. The commission may permit a manufacturer, wholesaler, or distributor to sell and export smokeless tobacco products to a regular dealer in smokeless tobacco products outside the state, without affixing the warning labels required by Section 59-14-501.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-504. Responsibility for placement of warning labels -- One label required.

It is the intent and purpose of this part to require all manufacturers, jobbers, wholesalers, and distributors to securely affix the warning labels required by Section 59-14-501. When warning labels are affixed as required by this part, no additional warning label is required, regardless of how often the articles are sold or resold in the state.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-505. Separate offenses -- Evidence of intended sale of products.

Each article, package, or container not having a warning label affixed, as required by Section 59-14-501, is considered a separate offense. The presence of any article, package, or container of smokeless tobacco products in the place of business of any person required by this chapter to affix warning labels is prima facie evidence that those articles, packages, or containers are intended for sale and are subject to this part.

Amended by Chapter 4, 1993 General Session

59-14-506. Contraband goods.

Any smokeless tobacco products without affixed warning labels as required by this part, which have been in the possession of any wholesaler, distributor, or retailer in this state for 72 hours or longer, or which have been sold by the wholesaler, distributor, or retailer, are contraband goods. Those contraband goods may be seized by the commission or its employees, or by any peace officer of the state or its political subdivisions, without a warrant. The contraband goods shall be destroyed.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-507. Penalty for violation.

Violation of this part is a class B misdemeanor.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-508. Federal laws to supersede these requirements.

In the event federal legislation requiring warning labels on smokeless tobacco products is enacted, the requirements of that legislation shall supersede the requirements of Sections 59-14-501 through 59-14-507.

Renumbered and Amended by Chapter 2, 1987 General Session

59-14-509. Restrictions on mail order or Internet sales.

(1) For purposes of this section:

(a) "Distributor" means a person, wherever residing or located, who:

(i) is licensed in this state to purchase non-taxed tobacco products; and

(ii) stores, sells, or otherwise disposes of tobacco products.

(b) "Licensed person" is as defined in Subsection 59-14-409(1).

(c) "Order or purchase" includes:

(i) by mail or delivery service;

(ii) through the Internet or computer network;

(iii) by telephone; or

(iv) through some other electronic method.

(d) "Retailer" means any person who sells tobacco products to consumers for personal consumption.

(2) A person, distributor, manufacturer, or retailer shall not:

(a) cause tobacco products or cigarettes as defined in Section 59-22-202 to be ordered or purchased by anyone other than a licensed person; or

(b) knowingly provide substantial assistance to a person who violates this section.

(3) (a) Each order or purchase of a tobacco product or cigarettes as defined in Section 59-22-202 in violation of Subsection (2) shall constitute a separate violation under this section.

(b) In addition to the penalties in Subsection (4), a person who violates this section is subject to:

(i) a civil penalty in an amount not to exceed $5,000 for each violation of this section;

(ii) an injunction to restrain a threatened or actual violation of this section; and

(iii) recovery by the state for:

(A) the costs of investigation;

(B) the cost of expert witness fees;

(C) the cost of the action; and

(D) reasonable attorney's fees.

(4) A person who knowingly violates this section has engaged in an unfair and deceptive trade practice in violation of Title 13, Chapter 5, Unfair Practices Act, and the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the state treasurer for deposit in the General Fund.

Enacted by Chapter 341, 2009 General Session

59-14-601. Definitions.

As used in this part:

(1) "Brand family" means:

(a) all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including: "menthol," "lights," "kings," and "100s"; and

(b) any brand name, alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

(2) "Cigarette" has the same meaning as in Subsection 59-22-202(4).

(3) "Commission" means the State Tax Commission as defined in Section 59-1-101.

(4) "Distributor" means a person, wherever residing or located, who purchases nontax-paid cigarettes and stores, sells, or otherwise disposes of the cigarettes.

(5) "Master Settlement Agreement" has the same meaning as in Subsection 59-22-202(5).

(6) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(7) "Participating manufacturer" has the meaning given that term in Section II(jj) of the Master Settlement Agreement and all amendments thereto.

(8) "Stamping agent" means a person that is authorized to affix tax stamps to packages or other containers of cigarettes under Section 59-14-205 or any person that is required to pay the tobacco tax imposed pursuant to Section 59-14-302.

(9) "Qualified Escrow Fund" has the same meaning as defined in Subsection 59-22-202(6).

(10) (a) Except as provided in Subsection (10)(b), "tobacco product manufacturer" has the same meaning as defined in Subsection 59-22-202(9).

(b) "Tobacco product manufacturer" does not include a cigarette rolling machine operator as defined in Section 59-14-102.

(11) "Units sold" has the same meaning as defined in Subsection 59-22-202(10).

Amended by Chapter 148, 2013 General Session

59-14-602. Certifications -- Directories -- Tax stamps.

(1) Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver on a form prescribed by the commission a certification to the attorney general and the commission, no later than April 30th each year, certifying that, as of the date of the certification, the tobacco product manufacturer is either:

(a) a participating manufacturer; or

(b) in full compliance with Sections 59-14-214 and 59-22-203.

(2) A participating manufacturer shall:

(a) include in its certification a list of its brand families; and

(b) update the list 30 calendar days prior to any addition to, or modification of, its brand families by executing and delivering a supplemental certification to the commission and the attorney general.

(3) (a) A nonparticipating manufacturer shall include in its certification:

(i) a list of all of its brand families and the number of units for each brand family that were sold in the state during the preceding calendar year;

(ii) a list of all of its brand families that have been sold in the state at any time during the current calendar year;

(iii) indicating, by an asterisk, any brand family sold in the state by the manufacturer during the preceding calendar year that is no longer being sold in the state by the manufacturer as of the date of the certification;

(iv) identifying by name and address, any other manufacturer of the brand families sold in the state, by the manufacturer submitting the certification, during the preceding or current calendar year;

(v) that the nonparticipating manufacturer is registered to do business in the state, or has appointed a resident agent for service of process and provided notice of the registered agent as required by Section 59-14-605;

(vi) that the nonparticipating manufacturer has:

(A) established and continues to maintain a qualified escrow fund; and

(B) has executed a qualified escrow agreement which:

(I) has been reviewed and approved by the commission; and

(II) governs the qualified escrow fund;

(vii) that the nonparticipating manufacturer is in full compliance with the Model Tobacco Settlement Act and this part, and any regulations promulgated pursuant to the Model Tobacco Settlement Act or this part; and

(viii) the following information concerning the qualified escrow fund:

(A) the name, address, and telephone number of the financial institution where the nonparticipating manufacturer established the qualified escrow fund required by Section 59-22-203;

(B) the account number of the qualified escrow fund and any subaccount number for the state;

(C) the amount the nonparticipating manufacturer placed in the fund for cigarettes sold in the state during the preceding calendar year;

(D) the date and amount of each deposit into the fund, and evidence or verification as required by the commission by administrative rule adopted in accordance with Section 59-14-607 as necessary to confirm the information required by Subsection (3)(a); and

(E) the amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from the fund, or from any other qualified escrow fund into which it ever made escrow payments pursuant to Section 59-22-203.

(b) The nonparticipating manufacturer shall update the list required by this Subsection (3) at least 30 calendar days prior to any addition to, or modification of, its brand families, by executing and delivering a supplemental certification to the commission and the attorney general.

(c) A tobacco product manufacturer subject to this Subsection (3) shall:

(i) deposit the escrow payments required by Sections 59-14-214 and 59-22-203 on a quarterly basis during the year in which the sale occurred; and

(ii) verify the quarterly deposits to the commission in accordance with Subsection (3)(a)(viii)(D).

(4) A tobacco product manufacturer may not include a brand family in the certification required by this section unless:

(a) in the case of a participating manufacturer, the participating manufacturer affirms that the brand family will be considered its cigarette for purposes of:

(i) calculating its payments under the Master Settlement Agreement for the relevant year; and

(ii) calculating the volume and shares determined pursuant to the Master Settlement Agreement; and

(b) in the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family will be considered its cigarette for purposes of Section 59-22-203.

(5) Nothing in this section shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the Master Settlement Agreement or for purposes of Section 59-22-203.

(6) Tobacco product manufacturers shall maintain all invoices and documentation of sales and other information relied upon for the certification required by this section for a period of five years, unless otherwise required by law to maintain them for a greater period of time.

Enacted by Chapter 204, 2005 General Session

59-14-603. Directory of cigarettes approved for stamping and sale.

(1) No later than August 30, 2005, the commission shall develop and publish on its website a directory listing:

(a) all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of Section 59-14-602; and

(b) all brand families that are listed in the certifications required by Section 59-14-602, except the commission shall not include or retain in the directory:

(i) the name or brand families of any nonparticipating manufacturer:

(A) who failed to provide the certification required by Section 59-14-602; or

(B) whose certification is determined by the commission to be out of compliance with Section 59-14-602, unless the commission has determined that the violation has been cured to the satisfaction of the commission; or

(ii) a tobacco product manufacturer or brand family of a nonparticipating manufacturer for which the commission determines:

(A) any escrow payment required by Section 59-22-203 for any period, for any brand family, whether or not listed by the nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement; or

(B) any outstanding final judgment, including interest thereon, for a violation of the Model Tobacco Settlement Act has not been fully satisfied for the brand family or the tobacco product manufacturer.

(2) The commission shall update the directory required by this section as necessary:

(a) to correct mistakes;

(b) to add or remove a tobacco product manufacturer or brand family; and

(c) to keep the directory in conformity with the requirements of this part.

(3) (a) Every stamping agent shall provide to the commission a current and valid electronic mail address for the purpose of receiving notifications from the commission concerning information required by this section and this part.

(b) The stamping agent shall update the electronic mail address as necessary.

(4) A determination by the commission to not include or to remove a brand family or tobacco product manufacturer from the directory required by this section is subject to review in the manner prescribed by Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

59-14-604. Prohibition against stamping, sale, or import of cigarettes not in the directory -- Requirement to certify compliance.

(1) It is unlawful for any person:

(a) to affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory required by Section 59-14-603; or

(b) to sell, offer, or possess for sale, in this state, or import for personal consumption in this state, cigarettes of a tobacco product manufacturer or brand family not included in the directory required by Section 59-14-603.

(2) (a) It is unlawful for any person to sell or distribute cigarettes, or acquire, hold, own, possess, transport, import, or cause to be imported cigarettes, that the person knows or should know are intended for distribution or sale in the state in violation of Section 59-14-603.

(b) A violation of this Subsection (2) is a class B misdemeanor.

Enacted by Chapter 204, 2005 General Session

59-14-605. Appointment of agent for service of process.

(1) (a) A nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory required by Section 59-14-603, appoint and continually engage without interruption the services of an agent in this state.

(b) The agent appointed under Subsection (1)(a) shall:

(i) act as agent for the service of process for any action or proceeding against the nonresident or foreign nonparticipating manufacturer concerning or arising out of the enforcement of this part or the Model Tobacco Settlement Act; and

(ii) may be served in any manner authorized by law.

(c) Service under this Subsection (1) shall constitute legal and valid service of process on the nonparticipating manufacturer.

(2) The nonparticipating manufacturer shall provide the name, address, phone number, and proof of the appointment and availability of the agent appointed pursuant to this section to the attorney general and to the commission as established by administrative rule in accordance with Section 59-14-607.

(3) (a) If the nonparticipating manufacturer terminates the authority of an agent appointed under the provisions of this section, the nonparticipating manufacturer shall:

(i) provide notice to the attorney general and to the commission 30 calendar days prior to termination of the authority of an agent; and

(ii) provide proof to the satisfaction of the commission of the appointment of a new agent no less than five calendar days prior to the termination of the existing agent.

(b) If an agent terminates its agency appointment with the nonparticipating manufacturer, the nonparticipating manufacturer shall notify the attorney general and the commission of the termination within five calendar days of the manufacturer's knowledge of the termination, and shall include proof to the commission of the appointment of a new agent as required by commission rule adopted under Section 59-14-607.

(4) (a) If a nonparticipating manufacturer whose cigarettes are sold in this state does not appoint an agent as required by this section, the Department of Commerce shall serve as the agent for service of process.

(b) A nonparticipating manufacturer who does not appoint an agent as required by this section, and who has the Department of Commerce appointed as the agent for service of process under the provision of Subsection (4)(a), does not satisfy the condition precedent required by Subsection (1)(a), and may not be included in the directory created in Section 59-14-603.

Enacted by Chapter 204, 2005 General Session

59-14-606. Reporting by stamping agents.

(1) A stamping agent shall submit the following information to the commission not later than 30 calendar days after the end of each calendar quarter, or more frequently if required by the commission by administrative rule in accordance with Section 59-14-607:

(a) a list by brand family of the total number of cigarettes for which the stamping agent affixed stamps during the reporting period;

(b) the equivalent stick count for roll your own tobacco, for which the stamping agent paid the tobacco product tax during the reporting period;

(c) the equivalent total number of cigarettes or stick count for which the stamping agent paid taxes for the reporting period; and

(d) any other information the commission determines is necessary to enforce this part.

(2) The stamping agent shall maintain, and make available to the commission, all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the commission for a period of five years.

(3) The commission may share information received under this part with federal, state, or local agencies as necessary for enforcement of this part, the Model Tobacco Settlement Act, or corresponding laws of other states.

(4) For purposes of complying with the Model Tobacco Settlement Act, the commission may require, at any time, from the nonparticipating manufacturer and from the financial institution in which the manufacturer has established a qualified escrow fund, proof of:

(a) the amount of money in the fund, exclusive of interest;

(b) the amount and date of each deposit to the fund; and

(c) the amount and date of each withdrawal from the fund.

(5) In addition to the information required to be submitted pursuant to Sections 59-14-214 and 59-22-203 and this part, the commission may require by administrative rule adopted pursuant to Section 59-14-607, a stamping agent or tobacco product manufacturer to submit any additional information including samples of the packaging or labeling of each brand family, as is necessary to enable the commission to determine whether a tobacco product manufacturer is in compliance with this part.

(6) No person shall be issued a license or granted a renewal of a license to act as a stamping agent unless the person has certified in writing, under penalty of perjury, that the person will comply fully with this part.

(7) A person required to file a report under this section who fails to timely file the report, or who provides false or misleading information on, or in relation to, the report:

(a) is guilty of a class B misdemeanor; and

(b) is subject to:

(i) revocation or suspension of a license under Part 2, Cigarettes; and

(ii) a civil penalty, imposed by the commission, in an amount that does not exceed the greater of:

(A) 500% of the retail value of the cigarettes for which an accurate report was not filed; or

(B) $5,000.

Amended by Chapter 164, 2011 General Session

59-14-607. Administrative rulemaking authority.

(1) The commission may promulgate administrative rules as necessary to enforce the provisions of this part.

(2) The rules authorized by this part include rules:

(a) to verify information concerning the escrow deposits required by Section 59-14-602;

(b) regarding the production of information sufficient to enable the commission

to determine the adequacy of the amount of the installment deposit required by this part;

(c) regarding the certification required by Section 59-14-602;

(d) necessary to receive and publish information for the directory required by Section 59-14-603;

(e) regarding the notification requirements for the appointment of an agent for service of process in Section 59-14-605;

(f) for reporting by stamping agents or manufacturers of tobacco products under Section 59-14-606; and

(g) as authorized by this part or the Master Settlement Agreement.

Enacted by Chapter 204, 2005 General Session

59-14-608. License revocation and penalties.

(1) (a) The commission may revoke or suspend the license of a stamping agent in the manner provided in Section 59-14-202 if the commission determines that the stamping agent has violated Sections 59-14-604, 59-14-606, or other rule adopted under the provisions of this part.

(b) The penalty imposed under Subsection (1)(a) is in addition to or in lieu of any other civil or criminal remedy provided by law.

(c) Each stamp affixed and each sale or offer to sell cigarettes in violation of Section 59-14-604, or other rule adopted under the provisions of this part, shall constitute a separate violation.

(d) For each violation under Subsection (1)(c), the commissioner may, in addition to the penalty imposed by Subsection (1)(a), impose a civil penalty in an amount not to exceed the greater of 500% of the retail value of the cigarettes or $5,000.

(2) (a) Any cigarettes that have been sold, offered for sale, or possessed for sale, in this state, or imported for personal consumption in this state, in violation of Section 59-14-604 are:

(i) contraband under Section 59-14-213; and

(ii) subject to seizure and forfeiture as provided in Section 59-14-213.

(b) Cigarettes seized and forfeited under the provisions of this section shall be destroyed and not resold.

(3) (a) The commission may seek an injunction to:

(i) restrain a threatened or actual violation of this part by a stamping agent; or

(ii) to compel the stamping agent to comply with this part.

(b) In any action brought pursuant to this section, the state is entitled to recover the costs of investigation, costs of the action, and reasonable attorney fees.

(4) A person who violates Section 59-14-604 engages in an unfair and deceptive trade practice in violation of Title 13, Chapter 5, Unfair Practices Act.

Enacted by Chapter 204, 2005 General Session

59-14-609. Effective dates for reporting -- Disgorgement of profits --

Recovery of costs.

(1) The first report of the stamping agents required by this part are due by June 15, 2005. The first certifications of the tobacco product manufacturers required by this part are due June 30, 2005. The directory required by this part shall be published by the commission no later than August 30, 2005.

(2) In any action brought by the state to enforce this part, the state shall be entitled to recover the costs of investigation, expert witness fees, costs of the action, and reasonable attorney fees.

(3) (a) If a court determines that a person has violated this part, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the State Treasurer for deposit in the Tobacco Control Restricted Account which is created in Section 59-14-610.

(b) Unless otherwise expressly provided, the remedies or penalties provided by this part are cumulative to each other and to the remedies or penalties available under all other laws of this state.

Enacted by Chapter 204, 2005 General Session

59-14-610. Creation of Tobacco Control Restricted Account.

(1) There is created within the General Fund a restricted account known as the Tobacco Control Restricted Account.

(2) The Tobacco Control Restricted Account consists of:

(a) all profits, gains, gross receipts, or other benefits ordered to be disgorged by the court under the provisions of Subsection 59-14-609(3); and

(b) interest on account money.

(3) Upon appropriations by the Legislature, money from the account shall be used for the enforcement of this part and the Master Settlement Agreement.

Enacted by Chapter 204, 2005 General Session

59-14-611. Severability clause.

If a court of competent jurisdiction finds that the provisions of this part and of the Model Tobacco Settlement Act conflict and cannot be harmonized, then the provisions of the Model Tobacco Settlement Act shall control. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this part causes the Model Tobacco Settlement Act to no longer constitute a qualifying or model statute, as those terms are defined in the Master Settlement Agreement, then that portion of this part shall not be valid. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this part is for any reason held to be invalid, unlawful, or unconstitutional, such decision shall not affect the validity of the remaining portions of this part.

Enacted by Chapter 204, 2005 General Session

59-14-701. Title.

This part is known as the "Cigarette Rolling Machine Operators Act."

Enacted by Chapter 148, 2013 General Session

59-14-702. Definitions.

As used in this part:

(1) "Brand family" is as defined in Section 59-14-601.

(2) "Tobacco product manufacturer" is as defined in Section 59-14-601.

Enacted by Chapter 148, 2013 General Session

59-14-703. Certification of cigarette rolling machine operators -- Renewal of certification -- Requirements for certification or renewal of certification -- Denial.

(1) A cigarette rolling machine operator may not perform the following without first obtaining certification from the commission as provided in this part:

(a) locate a cigarette rolling machine within this state;

(b) make or offer to make a cigarette rolling machine available for use within this state; or

(c) offer a cigarette for sale within this state if the cigarette is produced by:

(i) the cigarette rolling machine operator; or

(ii) another person at the location of the cigarette rolling machine operator's cigarette rolling machine.

(2) A cigarette rolling machine operator shall renew its certification as provided in this section.

(3) The commission shall prescribe a form for certifying a cigarette rolling machine operator under this part.

(4) (a) A cigarette rolling machine operator shall apply to the commission for certification before the cigarette rolling machine operator performs an act described in Subsection (1) within the state for the first time.

(b) A cigarette rolling machine operator shall apply to the commission for a renewal of certification on or before the earlier of:

(i) December 31 of each year; or

(ii) the day on which there is a change in any of the information the cigarette rolling machine operator provides on the form described in Subsection (3).

(5) To obtain certification or renewal of certification under this section from the commission, a cigarette rolling machine operator shall:

(a) identify:

(i) the cigarette rolling machine operator's name and address;

(ii) the location, make, and brand of the cigarette rolling machine operator's cigarette rolling machine; and

(iii) each person from whom the cigarette rolling machine operator will purchase or be provided tobacco products that the cigarette rolling machine operator will use to produce cigarettes; and

(b) certify, under penalty of perjury, that:

(i) the tobacco to be used in the cigarette rolling machine operator's cigarette

rolling machine, regardless of the tobacco's label or description, shall be only of a:

(A) brand family listed on the commission's directory listing required by Section 59-14-603; and

(B) tobacco product manufacturer listed on the commission's directory listing required by Section 59-14-603;

(ii) the cigarette rolling machine operator shall prohibit another person who uses the cigarette rolling machine operator's cigarette rolling machine from using tobacco, a wrapper, or a cover except for tobacco, a wrapper, or a cover purchased by or provided to the cigarette rolling machine operator from a person identified in accordance with Subsection (5)(a)(iii);

(iii) the cigarette rolling machine operator holds a current license issued in accordance with this chapter;

(iv) the cigarettes produced from the cigarette rolling machine shall comply with Title 53, Chapter 7, Part 4, The Reduced Cigarette Ignition Propensity and Firefighter Protection Act;

(v) the cigarette rolling machine shall be located in a separate and defined area where the cigarette rolling machine operator ensures that a person younger than 19 years of age may not be:

(A) present at any time; or

(B) permitted to enter at any time; and

(vi) the cigarette rolling machine operator may not barter, distribute, exchange, offer, or sell cigarettes produced from a cigarette rolling machine in a quantity of less than 20 cigarettes per retail transaction.

(6) If the commission determines that a cigarette rolling machine operator meets the requirements for certification or renewal of certification under this section, the commission shall grant the certification or renewal of certification.

(7) If the commission determines that a cigarette rolling machine operator does not meet the requirements for certification or renewal of certification under this section, the commission shall:

(a) deny the certification or renewal of certification; and

(b) provide the cigarette rolling machine operator the grounds for denial of the certification or renewal of certification in writing.

Enacted by Chapter 148, 2013 General Session

59-14-704. Cigarette rolling machine operator quarterly report to commission.

(1) A cigarette rolling machine operator shall each quarter report to the commission:

(a) the number of cigarettes, by weight, produced from each of the cigarette rolling machine operator's cigarette rolling machines for the previous calendar quarter;

(b) the brand family and the tobacco product manufacturer of the brand family of the tobacco the cigarette rolling machine operator purchased or was provided for use by the cigarette rolling machine operator's cigarette rolling machine for the previous calendar quarter;

(c) the ounces of tobacco the cigarette rolling machine operator purchased or was provided for use by the cigarette rolling machine operator's cigarette rolling machine for the previous calendar quarter; and

(d) each person from whom the cigarette rolling machine operator purchased or was provided tobacco for use by the cigarette rolling machine operator's cigarette rolling machine for the previous calendar quarter.

(2) A cigarette rolling machine operator shall file the report required by this section on the last day of the month immediately following the last day of the previous calendar quarter.

(3) The commission shall prescribe the form for the report under this section.

Enacted by Chapter 148, 2013 General Session

59-14-705. Cigarette rolling machine operator shall maintain a secure meter on cigarette rolling machine.

(1) A cigarette rolling machine operator shall maintain a secure meter on each cigarette rolling machine that the cigarette rolling machine operator controls, leases, owns, possesses, or otherwise has available for use.

(2) The secure meter described in Subsection (1):

(a) shall maintain an accurate count of the cigarettes, by weight, dispensed by the cigarette rolling machine;

(b) may not be accessed except to take a reading of the secure meter; and

(c) may not be reset or otherwise altered.

Enacted by Chapter 148, 2013 General Session

59-14-706. Revocation of certification -- Denial of certification or revocation of certification appeal procedures -- Removal of cigarette rolling machine from premises.

(1) In addition to the penalties provided under this title, the commission shall revoke the certification of a cigarette rolling machine operator if the cigarette rolling machine operator violates this part.

(2) The following are subject to review in accordance with Title 63G, Chapter 4, Administrative Procedures Act:

(a) the commission's denial of certification or denial of renewal of certification under Section 59-14-703; or

(b) the commission's revocation of certification under this section.

(3) If the commission revokes the certification of a cigarette rolling machine operator:

(a) the commission shall send written notice of the revocation to the cigarette rolling machine operator; and

(b) the cigarette rolling machine operator:

(i) may not use the cigarette rolling machine or make or offer to make the cigarette rolling machine available for use; and

(ii) no later than 10 days after the date the commission sends the written notice

described in Subsection (3)(a), shall remove the cigarette rolling machine from the cigarette rolling machine operator's premises.

Enacted by Chapter 148, 2013 General Session

59-14-707. Commission rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to verify information for purposes of granting or denying a certification or renewal of certification under this part.

Enacted by Chapter 148, 2013 General Session

59-15-101. Tax basis -- Rate.

(1) (a) A tax is imposed at the rate specified in Subsection (1)(b) on all beer, as defined in Section 32B-1-102, that is imported or manufactured for sale, use, or distribution in this state.

(b) The tax described in Subsection (1)(a) shall be imposed at a rate of:

(i) $11 per 31-gallon barrel for beer imported or manufactured:

(A) before July 1, 2003; and

(B) for sale, use, or distribution in this state; and

(ii) $12.80 per 31-gallon barrel for beer imported or manufactured:

(A) on or after July 1, 2003; and

(B) for sale, use, or distribution in this state.

(c) The tax imposed under this Subsection (1):

(i) shall be imposed at a proportionate rate for:

(A) any quantity of beer other than a 31-gallon barrel; or

(B) the fractional parts of a 31-gallon barrel; and

(ii) may not be imposed more than once on the same beer.

(2) A tax may not be imposed on beer:

(a) sold to the United States and its agencies; or

(b) (i) manufactured or imported for sale, use, or distribution outside the state; and

(ii) exported from the state.

Amended by Chapter 276, 2010 General Session

59-15-102. Tax delinquency -- Penalty.

If any person fails to pay the amount of any tax at the time it is due, a penalty as provided under Section 59-1-401 shall be imposed, and the tax shall bear interest at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2

59-15-104. Procedure for contesting assessment.

If any person, after filing a return and paying the tax provided by this chapter, is

aggrieved by the assessment made by the commission, the person may file a request for agency action.

Amended by Chapter 161, 1987 General Session

59-15-105. Reports -- Credit -- Records.

(1) Every brewer, wholesaler, or distributor manufacturing or importing beer for sale, use, or distribution in the state shall, before the last day of each month, file with the commission a return for the preceding calendar month showing the total number of barrels of beer or fractional parts of barrels manufactured or imported during the preceding monthly period. The total barrels of beer manufactured or imported with deductions made for the number of barrels exempt under this chapter shall be reported. The report shall also contain other information required by the commission, and the person shall, at the time of filing the report, pay to the commission the amount of tax due at the rate fixed in accordance with this chapter. Credit is allowed for spoilage, and for taxes already paid on beer, as provided under this chapter.

(2) For purposes of this chapter, beer is considered manufactured when it is placed in containers for use, sale, or distribution, and beer is considered imported when it is first received in the state for use, sale, or distribution.

(3) It is the duty of every person manufacturing or importing beer for sale in this state to keep and preserve adequate records for a period of three years showing the amount of beer sold. These records are open to inspection by the commission, or its authorized representative during reasonable business hours.

Renumbered and Amended by Chapter 2, 1987 General Session

59-15-106. Reports by brewers, wholesalers, and distributors outside the state.

Every brewer, wholesaler, or distributor outside the state, shipping beer into the state, for sale, use, or consumption within the state shall, before the last day of each month, file with the commission a return prescribed by the commission for the preceding calendar month and containing any information required by the commission.

Amended by Chapter 357, 2012 General Session

59-15-107. Report -- Effect of failure to file.

If any person who is liable for the tax and is required by this chapter or by the rules of the commission to file a report with respect to the beer tax or to file a report which contains information required to determine the amount of beer tax, fails, neglects, or refuses to file the report, the commission shall estimate the amount of beer upon which the tax is payable, and assess the tax.

Renumbered and Amended by Chapter 2, 1987 General Session

59-15-108. Construction and equipment of establishments.

No brewery or other establishment may be constructed or equipped in a manner which facilitates any breach of this chapter or the rules of the Alcoholic Beverage Control Commission or State Tax Commission. Any structure or equipment in violation of this section shall be removed by order of the Alcoholic Beverage Control Commission or the State Tax Commission.

Renumbered and Amended by Chapter 2, 1987 General Session

59-15-109. Tax money to be paid to state treasurer.

(1) Taxes collected under this chapter shall be paid by the commission to the state treasurer daily for deposit as follows:

(a) the greater of the following shall be deposited into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section 32B-2-403:

(i) an amount calculated by:

(A) determining an amount equal to 40% of the revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made; and

(B) subtracting $30,000 from the amount determined under Subsection (1)(a)(i)(A); or

(ii) $4,350,000; and

(b) the revenue collected in excess of the amount deposited in accordance with Subsection (1)(a) shall be deposited into the General Fund.

(2) (a) The commission shall notify the entities described in Subsection (2)(b) not later than the September 1 preceding the fiscal year of the deposit of:

(i) the amount of the proceeds of the beer excise tax collected in accordance with this section for the fiscal year two years preceding the fiscal year of deposit; and

(ii) an amount equal to 40% of the amount listed in Subsection (2)(a)(i).

(b) The notification required by Subsection (2)(a) shall be sent to:

(i) the Governor's Office of Management and Budget; and

(ii) the Legislative Fiscal Analyst.

Amended by Chapter 310, 2013 General Session

59-18-101. Short title.

This chapter is known as the "Charitable Trust Act."

Renumbered and Amended by Chapter 2, 1987 General Session

59-18-102. Definitions.

As used in this chapter:

(1) Section references, unless otherwise indicated, are to the Internal Revenue Code of 1954, as in effect on January 1, 1970.

(2) "Charitable organization" means an organization described in Section 501(c)(3) and exempt from tax under Section 501(a).

(3) "Private foundation trust" means a trust (including a trust described in Section 4947(a)(1)) as defined in Section 509(a).

(4) "Split interest trust" means a trust for individual and charitable beneficiaries that is subject to the provisions of Section 4947(a)(2).

(5) "Trust" means an express trust created by a trust instrument, including a will.

(6) "Trustee" means the trustee, trustees, person, or persons possessing a power or powers referred to in this chapter.

Renumbered and Amended by Chapter 2, 1987 General Session

59-18-103. Applicability to split interest trust or private foundation trust created before or after effective date.

The provisions of this chapter that are applicable to a split interest trust or to a private foundation trust shall apply to all such trusts, whether they are created before or after the effective date of this chapter.

Renumbered and Amended by Chapter 2, 1987 General Session

59-18-104. Duties and powers of trustee.

Except as provided in Section 59-18-106, the trustee of a private foundation trust or a split interest trust has the duties and powers conferred upon him by the provisions of this chapter.

Renumbered and Amended by Chapter 2, 1987 General Session

59-18-105. Trustee's fiduciary obligations and duty not to deprive trust of tax exemption, deduction or credit.

(1) In the exercise of his powers including the powers granted by this chapter, a trustee has a duty to act with due regard to his obligation as a fiduciary, including a duty not to exercise any power in such a way as to deprive the trust of an otherwise available tax exemption, deduction, or credit for tax purposes or deprive a donor of a trust asset of a tax deduction or credit or operate to impose a tax upon a donor, trust, or other person. The word "tax" includes, but is not limited to any federal, state, or local excise, income, gift, estate, or inheritance tax.

(2) A trustee of a private foundation trust, except as provided in Section 59-18-106, shall make distributions at such time and in such manner as not to subject the trust to tax under Section 4942.

(3) A trustee of a private foundation trust or a split interest trust, to the extent that the split interest trust is subject to the provisions of Section 4947(a)(2), in the exercise of his powers, except as provided in Subsection (4) of this section and Section 59-18-106, shall not:

(a) engage in any act of self dealing (as defined in Section 4941(d));

(b) retain any excess business holdings (as defined in Section 4943(c));

(c) make any investments in such manner as to subject the foundation to tax under Section 4944; and

(d) make any taxable expenditures (as defined in Section 4945(d)).

(4) Subsections (3)(b) and (c) do not apply to a split interest trust if:

(a) all the income interest (and none of the remainder interest) of such trust is devoted solely to one or more of the purposes described in Section 170(c)(2)(B), and all amounts in such trust for which a deduction was allowed under Section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 have aggregate fair market value not more than 60% of the aggregate fair market value of all amounts in such trust; or

(b) a deduction was allowed under Section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for amounts payable under the terms of such trust to every remainder beneficiary but not to any income beneficiary.

Renumbered and Amended by Chapter 2, 1987 General Session

59-18-106. Trustee's notice to attorney general of inconsistent provisions in trust.

If the trustee determines that the governing instrument contains provisions, in the case of a power to make distributions, which is more restrictive than Subsection 59-18-105(2), or if the trust contains other powers which specifically direct acts by the trustee that are inconsistent with the provisions of Subsection 59-18-105(3), the trustee shall notify the attorney general within six months following the effective date of this chapter, or when the trust becomes subject to this chapter, whichever last occurs. Section 59-18-105 does not apply to any trust with respect to which notice has been given unless the trust is amended to comply with the terms of this chapter.

Renumbered and Amended by Chapter 2, 1987 General Session

59-18-107. Amendment of governing instrument.

(1) In the case of a trust which is solely for a named charitable organization or organizations and as to which the trustee does not possess any discretion with regard to the distribution of income or principal among two or more such organizations, the trustee, with the consent of the named charitable organization or organizations, may amend the governing instrument to comply with the provisions of Subsection 59-18-105(2).

(2) In the case of a charitable trust which is not subject to the provisions of Subsection (1), the trustee with the consent of the attorney general may amend the governing instrument to comply with the provisions of Subsection 59-18-105(2).

Renumbered and Amended by Chapter 2, 1987 General Session

59-18-108. Court's power to relieve trustee from restrictions on powers and duties.

This chapter does not affect the power of a court of competent jurisdiction for cause shown and upon petition of the trustee, attorney general, or affected beneficiary, and upon appropriate notice to the affected parties to relieve a trustee from any restrictions on his powers and duties that are placed upon him by the governing instrument or applicable law.

Renumbered and Amended by Chapter 2, 1987 General Session

59-18-109. Release of power to select charitable donees.

(1) The trustee of a trust all of the unexpired interests in which are devoted to one or more charitable purposes, unless the creating instrument expressly provides otherwise, may release a power to select charitable donees.

(2) The release of a power to select charitable donees may apply to all or any part of the property subject to the power and may reduce or limit the charitable organizations or classes of charitable organizations in whose favor the power is exercisable.

(3) A release shall be effected by a duly acknowledged written instrument signed by the trustee and delivered as provided in Subsection (4).

(4) Delivery of a release shall be accomplished as follows:

(a) if the release is accomplished by specifying a charitable organization or organizations as beneficiary or beneficiaries of the trust, by delivery of a copy of the release to each designated charitable organization;

(b) if the release is accomplished by reducing the class of permissible charitable organizations, by delivery of a copy of the release to the attorney general.

(5) If a release is accomplished by specifying a public charitable organization or organizations as beneficiary or beneficiaries of the trust, the trust at all times thereafter shall be operated exclusively for the benefit of and supervised by the specified public charitable organization or organizations.

Renumbered and Amended by Chapter 2, 1987 General Session

59-18-110. Election and consent to release of trust to specified charitable organization.

A trustee of a trust for the benefit of a public charitable organization or organizations may, with the consent of such organization or organizations, come under Subsection 59-18-109 (5) by filing an election, accompanied by the consents, with the attorney general. Thereafter, the trust shall be subject to Subsection 59-18-109(5) and Section 59-18-111.

Renumbered and Amended by Chapter 2, 1987 General Session

59-18-111. Duties of trustee of trust subject to supervision by specified charitable organization.

The trustee of a trust subject to the supervision by a specified public charitable organization or organizations, as provided in Subsection 59-18-109(5), shall file with each specified charitable organization:

(1) a trust copy of the governing instrument together with a written report, under oath, setting forth complete information as to the nature of the assets and liabilities with the delivery of the release pursuant to Subsection 59-18-109(4) or the filing of the election under Section 59-18-110;

(2) an annual report, within 4-1/2 months following the close of each year, setting forth a complete statement of receipts, disbursements, assets (together with cost and market value of each asset), and liabilities; and

(3) such other information as the public charitable organization or organizations deem necessary to compel proper administration of the trust.

Renumbered and Amended by Chapter 2, 1987 General Session

59-18-112. Interpretation of chapter to encourage charitable gifts.

This chapter shall be interpreted to effectuate the intent of the state of Utah to preserve, foster, and encourage gifts to or for the benefit of charitable organizations.

Renumbered and Amended by Chapter 2, 1987 General Session

59-18-113. Application of chapter to trusts and trust assets established or acquired before or after effective date.

Except as specifically provided in the trust, the provisions of this chapter apply to any trust established before or after the effective date of this chapter and to any trust asset acquired by the trustee before or after the effective date of this chapter.

Renumbered and Amended by Chapter 2, 1987 General Session

59-21-1. Disposition of federal mineral lease money -- Priority to political subdivisions impacted by mineral development -- Disposition of mineral bonus payments -- Appropriation of money attributable to royalties from extraction of minerals on federal land located within boundaries of Grand Staircase-Escalante National Monument.

(1) Except as provided in Subsections (2) through (4), all money received from the United States under the provisions of the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq., shall:

(a) be deposited in the Mineral Lease Account of the General Fund; and

(b) be appropriated by the Legislature giving priority to those subdivisions of the state socially or economically impacted by development of minerals leased under the Mineral Lands Leasing Act, for:

(i) planning;

(ii) construction and maintenance of public facilities; and

(iii) provision of public services.

(2) Seventy percent of money received from federal mineral lease bonus payments shall be deposited into the Permanent Community Impact Fund and shall be used as provided in Title 35A, Chapter 8, Part 3, Community Impact Alleviation.

(3) Thirty percent of money received from federal mineral lease bonus payments shall be deposited in the Mineral Bonus Account created by Subsection 59-21-2(1) and appropriated as provided in that subsection.

(4) (a) For purposes of this Subsection (4):

(i) the "boundaries of the Grand Staircase-Escalante National Monument"

means the boundaries:

(A) established by Presidential Proclamation No. 6920, 61 Fed. Reg. 50,223 (1996); and

(B) modified by:

(I) Pub. L. No. 105-335, 112 Stat. 3139; and

(II) Pub. L. No. 105-355, 112 Stat. 3247; and

(ii) a special service district, school district, or federal land is considered to be located within the boundaries of the Grand Staircase-Escalante National Monument if a portion of the special service district, school district, or federal land is located within the boundaries described in Subsection (4)(a)(i).

(b) Beginning on July 1, 1999, the Legislature shall appropriate, as provided in Subsections (4)(c) through (g), money received from the United States that is attributable to royalties from the extraction of minerals on federal land that, on September 18, 1996, was located within the boundaries of the Grand Staircase-Escalante National Monument.

(c) The Legislature shall annually appropriate 40% of the money described in Subsection (4)(b) to the Department of Transportation to be distributed by the Department of Transportation to special service districts that are:

(i) established by counties under Title 17D, Chapter 1, Special Service District Act;

(ii) socially or economically impacted by the development of minerals under the Mineral Lands Leasing Act; and

(iii) located within the boundaries of the Grand Staircase-Escalante National Monument.

(d) The Department of Transportation shall distribute the money described in Subsection (4)(c) in amounts proportionate to the amount of federal mineral lease money generated by the county in which a special service district is located.

(e) The Legislature shall annually appropriate 40% of the money described in Subsection (4)(b) to the State Board of Education to be distributed equally to school districts that are:

(i) socially or economically impacted by the development of minerals under the Mineral Lands Leasing Act; and

(ii) located within the boundaries of the Grand Staircase-Escalante National Monument.

(f) The Legislature shall annually appropriate 2.25% of the money described in Subsection (4)(b) to the Utah Geological Survey to facilitate the development of energy and mineral resources in counties that are:

(i) socially or economically impacted by the development of minerals under the Mineral Lands Leasing Act; and

(ii) located within the boundaries of the Grand Staircase-Escalante National Monument.

(g) Seventeen and three-fourths percent of the money described in Subsection (4)(b) shall be deposited annually into the State School Fund established by Utah Constitution Article X, Section 5.

Amended by Chapter 212, 2012 General Session

59-21-2. Mineral Bonus Account created -- Contents -- Use of Mineral Bonus Account money -- Mineral Lease Account created -- Contents -- Appropriation of money from Mineral Lease Account.

(1) (a) There is created a restricted account within the General Fund known as the "Mineral Bonus Account."

(b) The Mineral Bonus Account consists of federal mineral lease bonus payments deposited pursuant to Subsection 59-21-1(3).

(c) The Legislature shall make appropriations from the Mineral Bonus Account in accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

(d) The state treasurer shall:

(i) invest the money in the Mineral Bonus Account by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(ii) deposit all interest or other earnings derived from the account into the Mineral Bonus Account.

(2) (a) There is created a restricted account within the General Fund known as the "Mineral Lease Account."

(b) The Mineral Lease Account consists of federal mineral lease money deposited pursuant to Subsection 59-21-1(1).

(c) The Legislature shall make appropriations from the Mineral Lease Account as provided in Subsection 59-21-1(1) and this Subsection (2).

(d) The Legislature shall annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the Permanent Community Impact Fund established by Section 35A-8-303.

(e) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the State Board of Education, to be used for education research and experimentation in the use of staff and facilities designed to improve the quality of education in Utah.

(f) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Utah Geological Survey, to be used for activities carried on by the survey having as a purpose the development and exploitation of natural resources in the state.

(g) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used for activities carried on by the laboratory having as a purpose the development and exploitation of water resources in the state.

(h) (i) The Legislature shall annually appropriate to the Department of Transportation 40% of all deposits made to the Mineral Lease Account to be distributed as provided in Subsection (2)(h)(ii) to:

(A) counties;

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(C) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Department of Transportation shall allocate the funds specified in Subsection (2)(h)(i):

(A) in amounts proportionate to the amount of mineral lease money generated by each county; and

(B) to a county or special service district established by a county under Title 17D, Chapter 1, Special Service District Act, as determined by the county legislative body.

(i) (i) The Legislature shall annually appropriate 5% of all deposits made to the Mineral Lease Account to the Department of Workforce Services to be distributed to:

(A) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Department of Workforce Services may distribute the amounts described in Subsection (2)(i)(i) only to special service districts established under Title 17D, Chapter 1, Special Service District Act, by counties:

(A) of the third, fourth, fifth, or sixth class;

(B) in which 4.5% or less of the mineral lease money within the state is generated; and

(C) that are significantly socially or economically impacted as provided in Subsection (2)(i)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.

(iii) The significant social or economic impact required under Subsection (2)(i)(ii)(C) shall be as a result of:

(A) the transportation within the county of hydrocarbons, including solid hydrocarbons as defined in Section 59-5-101;

(B) the employment of persons residing within the county in hydrocarbon extraction, including the extraction of solid hydrocarbons as defined in Section 59-5-101; or

(C) a combination of Subsections (2)(i)(iii)(A) and (B).

(iv) For purposes of distributing the appropriations under this Subsection (2)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, the Department of Workforce Services shall:

(A) (I) allocate 50% of the appropriations equally among the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(II) allocate 50% of the appropriations based on the ratio that the population of

each county meeting the requirements of Subsections (2)(i)(ii) and (iii) bears to the total population of all of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(B) after making the allocations described in Subsection (2)(i)(iv)(A), distribute the allocated revenues to special service districts established by the counties under Title 17D, Chapter 1, Special Service District Act, as determined by the executive director of the Department of Workforce Services after consulting with the county legislative bodies of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii).

(v) The executive director of the Department of Workforce Services:

(A) shall determine whether a county meets the requirements of Subsections (2)(i)(ii) and (iii);

(B) shall distribute the appropriations under Subsection (2)(i)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, that meet the requirements of Subsections (2)(i)(ii) and (iii); and

(C) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may make rules:

(I) providing a procedure for making the distributions under this Subsection (2)(i) to special service districts; and

(II) defining the term "population" for purposes of Subsection (2)(i)(iv).

(j) (i) The Legislature shall annually make the following appropriations from the Mineral Lease Account:

(A) an amount equal to 52 cents multiplied by the number of acres of school or institutional trust lands, lands owned by the Division of Parks and Recreation, and lands owned by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to each county in which those lands are located;

(B) to each county in which school or institutional trust lands are transferred to the federal government after December 31, 1992, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between 52 cents per acre and the per acre payment made to that county in the most recent payment under the federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal payment was equal to or exceeded the 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(B) may not be made for the transferred lands;

(C) to each county in which federal lands, which are entitlement lands under the federal in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between the most recent per acre payment made under the federal payment in lieu of taxes program and 52 cents per acre, unless the federal payment was equal to or less than 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(C) may not be made for the transferred land; and

(D) to a county of the fifth or sixth class, an amount equal to the product of:

(I) $1,000; and

(II) the number of residences described in Subsection (2)(j)(iv) that are located within the county.

(ii) A county receiving money under Subsection (2)(j)(i) may, as determined by the county legislative body, distribute the money or a portion of the money to:

(A) special service districts established by the county under Title 17D, Chapter 1, Special Service District Act;

(B) school districts; or

(C) public institutions of higher education.

(iii) (A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95, the Division of Finance shall increase or decrease the amounts per acre provided for in Subsections (2)(j)(i)(A) through (C) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(B) For fiscal years beginning on or after fiscal year 2001-02, the Division of Finance shall increase or decrease the amount described in Subsection (2)(j)(i)(D)(I) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(iv) Residences for purposes of Subsection (2)(j)(i)(D)(II) are residences that are:

(A) owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources;

(B) located on lands that are owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources; and

(C) are not subject to taxation under:

(I) Chapter 2, Property Tax Act; or

(II) Chapter 4, Privilege Tax.

(k) The Legislature shall annually appropriate to the Permanent Community Impact Fund all deposits remaining in the Mineral Lease Account after making the appropriations provided for in Subsections (2)(d) through (j).

(3) (a) Each agency, board, institution of higher education, and political subdivision receiving money under this chapter shall provide the Legislature, through the Office of the Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual basis.

(b) The accounting required under Subsection (3)(a) shall:

(i) include actual expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and planned expenditures for the following fiscal year; and

(ii) be reviewed by the Business, Economic Development, and Labor Appropriations Subcommittee as part of its normal budgetary process under Title 63J, Chapter 1, Budgetary Procedures Act.

Amended by Chapter 212, 2012 General Session
Amended by Chapter 242, 2012 General Session

59-22-101. Title.

This chapter is known as the "Model Tobacco Settlement Act."

Amended by Chapter 9, 2001 General Session

59-22-201. Findings and purpose.

(1) Cigarette smoking presents serious public health concerns to the State and to the citizens of the State. The Surgeon General has determined that smoking causes lung cancer, heart disease and other serious diseases, and that there are hundreds of thousands of tobacco-related deaths in the United States each year. These diseases most often do not appear until many years after the person in question begins smoking.

(2) Cigarette smoking also presents serious financial concerns for the State. Under certain health-care programs, the State may have a legal obligation to provide medical assistance to eligible persons for health conditions associated with cigarette smoking, and those persons may have a legal entitlement to receive such medical assistance.

(3) Under these programs, the State pays millions of dollars each year to provide medical assistance for these persons for health conditions associated with cigarette smoking.

(4) It is the policy of the State that financial burdens imposed on the State by cigarette smoking be borne by tobacco product manufacturers rather than by the State to the extent that such manufacturers either determine to enter into a settlement with the State or are found culpable by the courts.

(5) On November 23, 1998, leading United States tobacco product manufacturers entered into a settlement agreement, entitled the "Master Settlement Agreement," with the State. The Master Settlement Agreement obligates these manufacturers, in return for a release of past, present, and certain future claims against them as described therein, to pay substantial sums to the State (tied in part to their volume of sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking.

(6) It would be contrary to the policy of the State if tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that the State will have an eventual source of recovery from them if they are proven to have acted culpably. It is thus in the interest of the State to require that such manufacturers establish a reserve fund to guarantee a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise.

Renumbered and Amended by Chapter 229, 2000 General Session

59-22-202. Definitions.

As used in this part:

(1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.

(2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

Solely for purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of 10% or more, and the term "person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.

(3) "Allocable share" means Allocable Share as that term is defined in the Master Settlement Agreement.

(4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (b) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (c) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (a) of this definition. The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

(5) "Master Settlement Agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by the State and leading United States tobacco product manufacturers.

(6) "Qualified escrow fund" means an escrow arrangement with a federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least $1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with Subsection 59-22-203(2).

(7) "Released claims" means Released Claims as that term is defined in the Master Settlement Agreement.

(8) "Releasing parties" means Releasing Parties as that term is defined in the Master Settlement Agreement.

(9) (a) "Tobacco product manufacturer" means an entity that after the date of enactment of this Act directly (and not exclusively through any affiliate):

(i) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of Subsection II(mm) of the Master Settlement Agreement and that pays the taxes specified in Subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(ii) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(iii) becomes a successor of an entity described in Subsection (9)(a)(i) or (ii).

(b) "Tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any Subsection (9)(a)(i) through (iii).

(10) "Units sold" means the number of individual cigarettes sold in the State by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the State on packs (or "roll-your-own" tobacco containers). The State Tax Commission shall promulgate such regulations as are necessary to ascertain the amount of State excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

Amended by Chapter 53, 2004 General Session

59-22-203. Requirements.

(1) Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the following:

(a) become a participating manufacturer (as that term is defined in Section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or

(b) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation):

(i) 1999: $.0094241 per unit sold after the date of enactment of this Act;

(ii) 2000: $.0104712 per unit sold;

(iii) for each of 2001 and 2002: $.0136125 per unit sold;

(iv) for each of 2003 through 2006: $.0167539 per unit sold; and

(v) for each of 2007 and each year thereafter: $.0188482 per unit sold.

(2) A tobacco product manufacturer that places funds into escrow pursuant to Subsection (1)(b) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

(a) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this Subsection (2)(a):

(i) in the order in which they were placed into escrow; and

(ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;

(b) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the State in a particular year was greater than the Master Settlement Agreement payments, as determined pursuant to Section IX(i) of that Agreement including after final

determination of all adjustments, that such manufacturer would have been required to make on account of such units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

(c) to the extent not released from escrow under Subsection (2)(a) or (b), funds shall be released from escrow and revert back to such tobacco product manufacturer 25 years after the date on which they were placed into escrow.

(3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to Subsection (1)(b) shall annually certify to the commission that it is in compliance with Subsection (1)(b) and Subsection (2). The commission may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under Subsection (1)(b) and Subsection (2). Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this Subsection (1)(b) and Subsection (2) shall:

(a) be required within 15 days to place such funds into escrow as shall bring it into compliance with Subsection (1)(b) and Subsection (2). The court, upon a finding of a violation of Subsection (1)(b) or Subsection (2), may impose a civil penalty to be paid to the General Fund in an amount not to exceed 5% of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100% of the original amount improperly withheld from escrow;

(b) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with Subsection (1)(b) and Subsection (2). The court, upon a finding of a knowing violation of Subsection (1)(b) or Subsection (2), may impose a civil penalty to be paid to the General Fund of the State in an amount not to exceed 15% of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300% of the original amount improperly withheld from escrow; and

(c) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years.

(4) Each failure to make an annual deposit required under Subsection (1)(b) shall constitute a separate violation.

(5) A court shall award the State its costs and attorneys fees incurred in bringing any action in which the State establishes that a tobacco product manufacturer has violated this section.

Amended by Chapter 53, 2004 General Session

59-22-301. Construction of this part.

This part sets forth definitions in the Master Settlement Agreement that are cross-referenced in Part 2, Model Tobacco Settlement Statute. This part is intended for convenience only and may not be construed as substantively or otherwise altering Part 2, Model Tobacco Settlement Statute, or the Master Settlement Agreement. Where Part 2 instructs that a term be given the same definition as that term is given in the Master Settlement Agreement, the definition shall be that set forth in the Master

Settlement Agreement, as it may be amended from time to time.

Renumbered and Amended by Chapter 229, 2000 General Session

59-22-302. Formula for inflation adjustments.

The formula for calculating inflation adjustments, which is referenced in Subsection 59-22-202(1), is set forth in Exhibit C of the Master Settlement Agreement as follows, with the exception of Subsection (7) which is omitted:

Exhibit C

Formula For Calculating Inflation Adjustment

(1) Any amount that, in any given year, is to be adjusted for inflation pursuant to this Exhibit, the "Base Amount," shall be adjusted upward by adding to such Base Amount the Inflation Adjustment.

(2) The Inflation Adjustment shall be calculated by multiplying the Base Amount by the Inflation Adjustment Percentage applicable in that year.

(3) The Inflation Adjustment Percentage applicable to payments due in the year 2000 shall be equal to the greater of 3% or the CPI%. For example, if the Consumer Price Index for December 1999, as released in January 2000, is 2% higher than the Consumer Price Index for December 1998, as released in January 1999, then the CPI% with respect to a payment due in 2000 would be 2%. The Inflation Adjustment Percentage applicable in the year 2000 would thus be 3%.

(4) The Inflation Adjustment Percentage applicable to payments due in any year after 2000 shall be calculated by applying each year the greater of 3% or the CPI% on the Inflation Adjustment Percentage applicable to payments due in the prior year. Continuing the example in subsection (3) above, if the CPI% with respect to a payment due in 2001 is 6%, then the Inflation Adjustment Percentage applicable in 2001 would be 9.1800000%, an additional 6% applied on the 3% Inflation Adjustment Percentage applicable in 2000, and if the CPI% with respect to a payment due in 2002 is 4%, then the Inflation Adjustment Percentage applicable in 2002 would be 13.5472000%, an additional 4% applied on the 9.1800000% Inflation Adjustment Percentage applicable in 2001.

(5) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the U.S. Department of Labor, or other similar measures agreed to by the Settling States and the Participating Manufacturers.

(6) The "CPI%" means the actual total percent change in the Consumer Price Index during the calendar year immediately preceding the year in which the payment in question is due.

Renumbered and Amended by Chapter 229, 2000 General Session

59-22-303. Allocable share.

(1) "Allocable Share," which is referenced in Subsection 59-22-202(3), is defined in the Master Settlement Agreement as follows:

"Allocable Share" means the percentage set forth for the State in question as

listed in Exhibit A hereto, without regard to any subsequent alteration or modification of such State's percentage share agreed to or by or among any States; or, solely for the purpose of calculating payments under subsection IX(c)(2) (and corresponding payments under subsection IX(i)), the percentage disclosed for the State in question pursuant to subsection IX(c)(2)(A) prior to June 30, 1999, without regard to any subsequent alteration or modification of such State's percentage share agreed to by or among any States.

(2) The percentage set forth for Utah in Exhibit A to the Master Settlement Agreement is 0.4448869%.

(3) The percentage for calculating "Strategic Contribution Payments" to Utah under subsection IX(c)(2) is to be determined by a three-member Allocation Committee in accordance with Exhibit U of the Master Settlement Agreement.

Renumbered and Amended by Chapter 229, 2000 General Session

59-22-304. Released claims.

(1) "Released Claims," which is referenced in Subsection 59-22-202(7), is defined in the Master Settlement Agreement as follows:

""Released Claims" means:

(1) for past conduct, acts or omissions, including any damages incurred in the future arising from such past conduct, acts or omissions, those Claims directly or indirectly based on, arising out of or in any way related, in whole or in part, to (A) the use, sale, distribution, manufacture, development, advertising, marketing or health effects of, (B) the exposure to, or (C) research, statements, or warnings regarding, Tobacco Products, including, but not limited to, the Claims asserted in the actions identified in Exhibit D, or any comparable Claims that were, could be or could have been asserted now or in the future in those actions or in any comparable action in federal, state or local court brought by a Settling State or a Releasing Party, whether or not such Settling State or Releasing Party has brought such action, except for claims not asserted in the actions identified in Exhibit D for outstanding liability under existing licensing, or similar, fee laws or existing tax laws, but not excepting claims for any tax liability of the Tobacco-Related Organizations or of any Released Party with respect to such Tobacco-Related Organizations, which claims are covered by the release and covenants set forth in this Agreement;

(2) for future conduct, acts or omissions, only those monetary Claims directly or indirectly based on, arising out of or in any way related to, in whole or in part, the use of or exposure to Tobacco Products manufactured in the ordinary course of business, including without limitation any future Claims for reimbursement of health care costs allegedly associated with the use of or exposure to Tobacco Products."

(2) Exhibit D is a list of the titles and docket numbers of the lawsuits brought by states against tobacco manufacturers and the courts in which those lawsuits were filed as of the date that the Master Settlement Agreement was entered into.

Amended by Chapter 306, 2007 General Session

59-22-305. Releasing parties.

"Releasing Parties," which is referenced in Subsection 59-22-202(8), is defined in the Master Settlement Agreement as follows:

(1) "Releasing Parties" means each Settling State and any of its past, present and future agents, officials acting in their official capacities, legal representatives, agencies, departments, commissions and divisions; and also means, to the full extent of the power of the signatories hereto to release past, present and future claims, the following: (1) any Settling State's subdivisions, political or otherwise, including, but not limited to, municipalities, counties, parishes, villages, unincorporated districts and hospital districts, public entities, public instrumentalities and public educational institutions; and (2) persons or entities acting in a parens patriae, sovereign, quasi-sovereign, private attorney general, qui tam, taxpayer, or any other capacity, whether or not any of them participate in this settlement, (A) to the extent that any such person or entity is seeking relief on behalf of or generally applicable to the general public in such Settling State or the people of the State, as opposed solely to private or individual relief for separate and distinct injuries, or (B) to the extent that any such entity, as opposed to an individual, is seeking recovery of health-care expenses, other than premium or capitation payments for the benefit of present or retired state employees, paid or reimbursed, directly or indirectly, by a Settling State.

Renumbered and Amended by Chapter 229, 2000 General Session

59-22-306. Original participating manufacturer and related terms.

(1) "Original Participating Manufacturer," which is referenced in Subsection 59-22-202(9)(a)(i), is defined in the Master Settlement Agreement as follows:

"Original Participating Manufacturer" means Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company, Phillip Morris Incorporated and R.J. Reynolds Tobacco Company, and the respective successors of each of the foregoing. Except as expressly providing in this Agreement, once an entity becomes an Original Participating Manufacturer, such entity shall permanently retain the status of Original Participating Manufacturer.

(2) Subsection II(mm) of the Master Settlement Agreement, which is referenced in Subsection 59-22-202(9)(a)(i), is the following definition of "relative market share":

"Relative market share" means an original participating manufacturer's respective share, expressed as a percentage, of the total number of individual cigarettes shipped in or to the 50 United States, the District of Columbia and Puerto Rico by all the original participating manufacturers during the calendar year immediately preceding the year in which the payment at issue is due, regardless of when such payment is made, as measured by the original participating manufacturers' reports of shipments of cigarettes to Management Science Associates, Inc., or a successor entity acceptable to both the original participating manufacturers and a majority of those attorneys general who are both the attorney general of a settling state and a member of the NAAG executive committee at the time in question. A cigarette shipped by more than one participating manufacturer shall be deemed to have been shipped solely by the first participating manufacturer to do so. For purposes of the

definition and determination of "relative market share," 0.09 ounces of "roll your own" tobacco shall constitute one individual cigarette.

(3) Subsection II(z) of the Master Settlement Agreement, which is referenced in Subsection 59-22-202(9)(a)(i), is the following definition of "market share":

"Market share" means a tobacco product manufacturer's respective share, expressed as a percentage, of the total number of individual cigarettes sold in the 50 United States, the District of Columbia and Puerto Rico during the applicable calendar year, as measured by excise taxes collected by the federal government and, in the case of sales in Puerto Rico, arbitrios de cigarillos collected by the Puerto Rico taxing authority. For purposes of the definition and determination of "market share" with respect to calculations under subsection IX(i), 0.09 ounces of "roll your own" tobacco shall constitute one individual cigarette; for purposes of the definition and determination of "market share" with respect to all other calculations, 0.0325 ounces of "roll your own" tobacco shall constitute one individual cigarette.

Renumbered and Amended by Chapter 229, 2000 General Session

59-22-307. Participating manufacturer.

(1) "Participating Manufacturer," which is referenced in Subsection 59-22-203(1), is defined in the Master Settlement Agreement as follows:

""Participating Manufacturer" means a Tobacco Product Manufacturer that is or becomes a signatory to this Agreement, provided that (1) in the case of a Tobacco Product Manufacturer that is not an Original Participating Manufacturer, such Tobacco Product Manufacturer is bound by this Agreement and the Consent Decree, or, in any Settling State that does not permit amendment of the Consent Decree, a Consent Decree containing terms identical to those set forth in the Consent Decree, in all Settling States in which this Agreement and the Consent Decree binds Original Participating Manufacturers, provided, however, that such Tobacco Product Manufacturer need only become bound by the Consent Decree in those Settling State in which the Settling State has filed a Released Claim against it, and (2) in the case of a Tobacco Product Manufacturer that signs this Agreement after the MSA Execution Date, such Tobacco Product Manufacturer, within a reasonable period of time after signing this Agreement, makes any payments, including interest thereon at the Prime Rate, that it would have been obligated to make in the intervening period had it been a signatory as of the MSA Execution Date. "Participating Manufacturer" shall also include the successor of a Participating Manufacturer. Except as expressly provided in this Agreement, once an entity becomes a Participating Manufacturer such entity shall permanently retain the status of Participating Manufacturer. Each Participating Manufacturer shall regularly report its shipments of Cigarettes in or to the 50 United States, the District of Columbia and Puerto Rico to Management Science Associates, Inc., or a successor entity as set forth in Subsection (mm). Solely for purposes of calculations pursuant to Subsection IX(d), a Tobacco Product Manufacturer that is not a signatory to this Agreement shall be deemed to be a "Participating Manufacturer" if the Original Participating Manufacturers unanimously consent in writing."

(2) Subsection IX(d) relates to Nonparticipating Manufacturer Adjustments.

Amended by Chapter 306, 2007 General Session

59-22-308. Payments by subsequent participating manufacturers.

Section XI(i)(2) and IX(i)(3) of the Master Settlement Agreement involve payments by subsequent participating manufacturers and providers as follows:

(1) A Subsequent Participating Manufacturer shall have payment obligations under this Agreement only in the event that its Market Share in any calendar year exceeds the greater of (1) its 1998 Market Share or (2) 125% of its 1997 Market Share, subject to the provisions of subsection (i)(4). In the year following any such calendar year, such Subsequent Participating Manufacturer shall make payments corresponding to those due in that same following year from the Original Participating Manufacturers pursuant to subsections VI(c), except for the payment due on March 31, 1999, IX(c)(1), IX(c)(2) and IX(e). The amounts of such corresponding payments by a Subsequent Participating Manufacturer are in addition to the corresponding payments that are due from the Original Participating Manufacturers and shall be determined as described in subsection (2) and (3) below. Such payments by a Subsequent Participating Manufacturer shall (A) be due on the same dates as the corresponding payments are due from Original Participating manufacturers; (B) be for the same purpose as such corresponding payments; and (C) be paid, allocated and distributed in the same manner as such corresponding payments.

(2) The base amount due from a Subsequent Participating Manufacturer on any given date shall be determined by multiplying (A) the corresponding base amount due on the same date from all of the Original Participating Manufacturers, as such base amount is specified in the corresponding subsection of this agreement and is adjusted by the Volume Adjustment, except for the provisions of subsection (B)(ii) of Exhibit E, but before such base amount is modified by any other adjustments, reductions or offsets, by (B) the quotient produced by dividing (i) the result of (x) such Subsequent Participating Manufacturer's Applicable Market Share, the applicable Market Share being that for the calendar year immediately preceding the year in which the payment in question is due, minus (y) the greater of (1) its 1998 Market Share or (2) 125% of its 1997 Market Share, by (ii) the aggregate Market Shares of the Original Participating Manufacturers, the applicable Market Shares being those for the calendar year immediately preceding the year in which the payment in question is due.

(3) Any payment due from a Subsequent Participating Manufacturer under subsections (1) and (2) above shall be subject, up to the full amount of such payment, to the Inflation Adjustment, the Nonsettling States Reduction, the NPM Adjustment, the offset for miscalculated or disputed payments described in subsection XI(i), the Federal Tobacco Legislation Offset, the Litigating Releasing Parties Offset and the offsets for claims over described in subsections XII(a)(4)(B) and XII(a)(8), to the extent that such adjustments, reductions or offsets would apply to the corresponding payment due from the Original Participating Manufacturers. Provided, however, that all adjustments and offsets to which a Subsequent Participating Manufacturer is entitled may only be applied against payments by such Subsequent Participating Manufacturer, if any, that are due within 12 months after the date on which the Subsequent Participating

Manufacturer becomes entitled to such adjustment or makes the payment that entitles it to such offset, and shall not be carried forward beyond that time even if not fully used.

(4) For purposes of this Subsection (i), the 1997, or 1998, as applicable, Market Share, and 125% thereof, of those Subsequent Participating Manufacturers that either (A) became a signatory to the Agreement more than 60 days after the MSA Execution Date or (B) had no Market Share in 1997, or 1998, as applicable, shall equal zero.

Amended by Chapter 53, 2004 General Session

59-22-401. Availability of master settlement agreement.

The commission shall provide a copy of the Master Settlement Agreement for review or purchase to any person upon request and may charge a fee for doing so in accordance with Subsection 59-1-210(26).

Enacted by Chapter 229, 2000 General Session

59-23-1. Title.

This chapter shall be known as the "Brine Shrimp Royalty Act."

Enacted by Chapter 179, 1997 General Session

59-23-3. Definitions.

As used in this chapter:

(1) "Brine shrimp eggs" means dormant, early stage brine shrimp embryos encapsulated as cysts that are harvested from within the state.

(2) "Tax year" means a one-year period beginning on February 1 and ending on January 31 of the following year.

Amended by Chapter 105, 2010 General Session

59-23-4. Brine shrimp royalty -- Royalty rate -- Commission to prepare billing statement -- Deposit of revenue.

(1) A person shall pay for each tax year a brine shrimp royalty of 3.75 cents multiplied by the total number of pounds of unprocessed brine shrimp eggs that the person harvests within the state during the tax year.

(2) (a) A person that harvests unprocessed brine shrimp eggs shall report to the Department of Natural Resources the total number of pounds of unprocessed brine shrimp eggs harvested by that person for that tax year on or before the February 15 immediately following the last day of that tax year.

(b) The Department of Natural Resources shall provide the following information to the commission on or before the March 1 immediately following the last day of a tax year:

(i) the total number of pounds of unprocessed brine shrimp eggs harvested for that tax year; and

(ii) for each person that harvested unprocessed brine shrimp eggs for that tax

year:

(A) the total number of pounds of unprocessed brine shrimp eggs harvested by that person for that tax year; and

(B) a current billing address for that person; and

(iii) any additional information required by the commission.

(c) (i) The commission shall prepare and mail a billing statement to each person that harvested unprocessed brine shrimp eggs in a tax year by the March 30 immediately following the last day of a tax year.

(ii) The billing statement under Subsection (2)(c)(i) shall specify:

(A) the total number of pounds of unprocessed brine shrimp eggs harvested by that person for that tax year;

(B) the brine shrimp royalty that the person owes; and

(C) the date that the brine shrimp royalty payment is due as provided in Section 59-23-5.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the information required under Subsection (2)(b)(iii).

(3) Revenue generated by the brine shrimp royalty shall be deposited in the Species Protection Account created in Section 79-2-303.

(4) Beginning with the 2004 interim, the Revenue and Taxation Interim Committee:

(a) shall review the brine shrimp royalty imposed under this section at least every five years;

(b) shall determine on or before the November interim meeting of the year in which the Revenue and Taxation Interim Committee reviews the brine shrimp royalty imposed under this section whether the brine shrimp royalty should be continued, modified, or repealed; and

(c) may review any other issue related to the brine shrimp royalty imposed under this part.

Amended by Chapter 105, 2010 General Session

59-23-5. Payment of the brine shrimp royalty.

(1) The brine shrimp royalty shall be paid to the commission by the person who harvests the unprocessed brine shrimp eggs.

(2) The payment shall be accompanied by the billing statement prepared by the commission in accordance with Section 59-23-4.

(3) The royalty is due on the April 30 immediately following the last day of the tax year.

Amended by Chapter 16, 2005 General Session

59-23-7. Rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement and enforce this chapter.

Amended by Chapter 105, 2010 General Session

59-23-8. Penalties and interest.

A person who harvests unprocessed brine shrimp eggs who fails to comply with this chapter is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

Amended by Chapter 105, 2010 General Session

59-24-101. Title.

This chapter is known as the "Radioactive Waste Facility Tax Act."

Amended by Chapter 295, 2003 General Session

59-24-102. Definitions.

As used in this chapter:

(1) (a) "Alternate feed material" means a natural or native material:

(i) mined for the extraction of its constituents or other matter from which source material may be extracted in a licensed uranium or thorium mill; and

(ii) may be reprocessed for its source material content.

(b) "Alternate feed material" does not include:

(i) material containing hazardous waste listed under 40 C.F.R. Part 261, Subpart D;

(ii) natural or unprocessed ore; or

(iii) naturally occurring radioactive materials containing greater than 15 picocuries per gram of radium-226.

(2) "Byproduct material" is as defined in 42 U.S.C. Sec. 2014(e)(2).

(3) "Class A low-level radioactive waste" means radioactive waste that is classified as class A waste under 10 C.F.R. 61.55.

(4) "Containerized class A waste" means class A low-level radioactive waste that is placed in the portion of a radioactive waste facility that is licensed to receive containerized class A waste.

(5) (a) "Gross receipts" means all consideration an owner or operator of a radioactive waste facility receives for the disposal of radioactive waste in the state, without any deduction or expense paid or accrued related to the disposal of the radioactive waste.

(b) "Gross receipts" do not include fees collected under Section 19-3-106 or any other taxes collected for a state or federal governmental entity.

(6) (a) "Processed class A waste" means waste that:

(i) is class A low-level radioactive waste; and

(ii) has been concentrated by a processor.

(b) "Processed class A waste" does not include containerized class A waste.

(7) "Radioactive waste" means:

(a) alternate feed material;

(b) byproduct material;
(c) containerized class A waste;
(d) processed class A waste; or
(e) uncontainerized, unprocessed class A waste.
(8) "Radioactive waste facility" or "facility" means:
(a) a facility licensed under Section 19-3-105; or
(b) a uranium mill licensed under 10 C.F.R. Part 40, Domestic Licensing of Source Material.
(9) (a) "Uncontainerized, unprocessed class A waste" means class A low-level radioactive waste that:
(i) is neither containerized class A waste, nor processed class A waste; and
(ii) must be disposed of under rules of the Nuclear Regulatory Commission in a licensed low-level radioactive waste disposal facility.
(b) "Uncontainerized, unprocessed class A waste" does not include alternate feed material.

Amended by Chapter 295, 2003 General Session

59-24-103. Tax imposed on radioactive waste.
(1) Beginning on April 1, 2001 through June 30, 2003, there is imposed a tax on radioactive waste received at a radioactive waste facility, as provided in this chapter.
(2) The tax is equal to the sum of the following amounts:
(a) 12% of the gross receipts received from the disposal of containerized class A waste;
(b) 10% of the gross receipts received from the disposal of processed class A waste;
(c) 5% of the gross receipts received from the disposal of uncontainerized, unprocessed class A waste;
(d) 10 cents per cubic foot of alternate feed material received at a radioactive waste facility for disposal or reprocessing; and
(e) 10 cents per cubic foot of byproduct material received at a radioactive waste facility for disposal.
(3) For purposes of the tax imposed by this section, a fraction of a cubic foot is considered to be a full cubic foot.
(4) The tax imposed by this section applies to:
(a) gross receipts received:
(i) pursuant to a contract entered into on or after April 30, 2001;
(ii) pursuant to a contract substantially modified on or after April 30, 2001;
(iii) pursuant to a contract renewed or extended on or after April 30, 2001;
(iv) not pursuant to a contract; or
(v) for the disposal of containerized class A waste; and
(b) alternate feed material or byproduct material received:
(i) pursuant to a contract entered into on or after April 30, 2001;
(ii) pursuant to a contract substantially modified on or after April 30, 2001;
(iii) pursuant to a contract renewed or extended on or after April 30, 2001; or

(iv) not pursuant to a contract.

(5) The tax imposed by this section does not apply to radioactive waste containing material classified as hazardous waste under 40 C.F.R. Part 261.

Amended by Chapter 295, 2003 General Session

59-24-103.5. Radioactive waste disposal, processing, and recycling facility tax.

(1) On and after July 1, 2003, there is imposed a tax on a radioactive waste facility, or a processing or recycling facility, as provided in this chapter.

(2) The tax is equal to the sum of the following amounts:

(a) 12% of the gross receipts of a radioactive waste facility derived from the disposal of containerized class A waste;

(b) 10% of the gross receipts of a radioactive waste facility derived from the disposal of processed class A waste;

(c) 5% of the gross receipts of a radioactive waste facility derived from the disposal of uncontainerized, unprocessed class A waste from a governmental entity or an agent of a governmental entity:

(i) pursuant to a contract entered into on or after April 30, 2001;

(ii) pursuant to a contract substantially modified on or after April 30, 2001;

(iii) pursuant to a contract renewed or extended on or after April 30, 2001; or

(iv) not pursuant to a contract;

(d) 5% of the gross receipts of a radioactive waste facility derived from the disposal of uncontainerized, unprocessed class A waste received by the facility from an entity other than a governmental entity or an agent of a governmental entity;

(e) 5% of the gross receipts of a radioactive waste facility derived from the disposal of mixed waste, other than the mixed waste described in Subsection (2)(f), received from:

(i) an entity other than a governmental entity or an agent of a governmental entity; or

(ii) a governmental entity or an agent of a governmental entity:

(A) pursuant to a contract entered into on or after April 30, 2005;

(B) pursuant to a contract substantially modified on or after April 30, 2005;

(C) pursuant to a contract renewed or extended on or after April 30, 2005; or

(D) not pursuant to a contract;

(f) 10% of the gross receipts of a radioactive waste facility derived from the disposal of mixed waste:

(i) (A) received from an entity other than a governmental entity or an agent of a governmental entity; or

(B) received from a governmental entity or an agent of a governmental entity:

(I) pursuant to a contract entered into on or after April 30, 2005;

(II) pursuant to a contract substantially modified on or after April 30, 2005;

(III) pursuant to a contract renewed or extended on or after April 30, 2005; or

(IV) not pursuant to a contract; and

(ii) that contains a higher radionuclide concentration level than the mixed waste

received by any radioactive waste facility in the state prior to April 1, 2004;

(g) 10 cents per cubic foot of alternate feed material received at a radioactive waste facility for disposal or reprocessing; and

(h) 10 cents per cubic foot of byproduct material received at a radioactive waste facility for disposal.

(3) For purposes of the tax imposed by this section, a fraction of a cubic foot is considered to be a full cubic foot.

(4) Except as provided in Subsections (2)(e) and (2)(f), the tax imposed by this section does not apply to radioactive waste containing material classified as hazardous waste under 40 C.F.R. Part 261.

Amended by Chapter 10, 2005 General Session

59-24-104. Payment of tax.

(1) The tax imposed by Section 59-24-103 shall be paid by the owner or operator of a radioactive waste facility that receives radioactive waste for disposal or reprocessing.

(2) The payment shall be accompanied by the form prescribed by the commission.

(3) The payment shall be paid quarterly on or before the last day of the month next succeeding each calendar quarterly period.

Enacted by Chapter 314, 2001 General Session

59-24-105. Deposit of tax revenue.

The commission shall deposit the tax revenue collected under this chapter into the Uniform School Fund.

Amended by Chapter 295, 2003 General Session

59-24-106. Records.

(1) An owner or operator of a radioactive waste facility shall maintain records, statements, books, or accounts necessary to determine the amount of tax for which the owner or operator is liable to pay under this chapter.

(2) The commission may require an owner or operator of a radioactive waste facility, by notice served upon the person, or by rule, to make or keep the records, statements, books, or accounts the commission considers sufficient to show the amount of tax for which the owner or operator is liable to pay under this chapter.

(3) After notice by the commission, the owner or operator of a radioactive waste facility shall open the records, statements, books, or accounts specified in Subsection (2) for examination by the commission or its duly authorized agent.

Enacted by Chapter 314, 2001 General Session

59-24-108. Rulemaking authority.

The commission may make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement and enforce this chapter.

Amended by Chapter 382, 2008 General Session

59-24-109. Penalties and interest.

An owner or operator of a radioactive waste facility who fails to comply with this chapter is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

Enacted by Chapter 314, 2001 General Session

59-25-101. Title.

This chapter is known as the "Hazardous Waste Facility and Nonhazardous Solid Waste Facility Tax Act."

Enacted by Chapter 295, 2003 General Session

59-25-102. Definitions.

As used in this chapter:

(1) "Construction waste or demolition waste" is as defined in Section 19-6-102.

(2) "Disposal" is as defined in Section 19-6-102.

(3) "Hazardous waste" is as defined in Section 19-6-102.

(4) "Hazardous waste facility" means a hazardous waste treatment and disposal facility, as defined in Section 19-6-202, that receives, for profit, hazardous waste for treatment or disposal.

(5) "Household waste" is as defined in Section 19-6-102.

(6) "Municipal solid waste" means household waste, nonhazardous commercial solid waste, and nonhazardous sludge.

(7) "Nonhazardous solid waste" is solid waste, as defined in Section 19-6-102, except that it does not include:

(a) hazardous waste;

(b) municipal solid waste; or

(c) construction waste or demolition waste.

(8) "Nonhazardous solid waste facility" means a commercial nonhazardous solid waste treatment or disposal facility as defined in Section 19-6-102.

(9) "Solid waste" is as defined in Section 19-6-102.

(10) "Treatment" is as defined in Section 19-6-102.

Enacted by Chapter 295, 2003 General Session

59-25-103. Hazardous waste facility and nonhazardous solid waste facility tax.

(1) On and after July 1, 2003, through December 31, 2003, there is imposed a tax on a hazardous waste facility and a nonhazardous solid waste facility as provided in

this chapter.

(2) The tax is equal to the sum of the following amounts:

(a) 3% of the gross receipts of a hazardous waste facility derived from the treatment or disposal of hazardous waste; and

(b) 3% of the gross receipts of a hazardous waste facility or nonhazardous solid waste facility derived from the treatment or disposal of nonhazardous solid waste.

(3) If hazardous waste or nonhazardous solid waste is received at a hazardous waste facility or nonhazardous solid waste is received at a nonhazardous solid waste facility and the tax imposed by this chapter is paid for the treatment of the waste, any subsequent treatment or disposal of the waste is not subject to additional taxes under this chapter.

Amended by Chapter 311, 2004 General Session

59-25-104. Payment of tax.

(1) The tax imposed by Section 59-25-103 shall be paid by the owner or operator of the hazardous waste facility or nonhazardous solid waste facility that receives the hazardous waste or nonhazardous solid waste for treatment or disposal.

(2) The payment shall be accompanied by the form prescribed by the commission.

(3) The payment shall be paid quarterly on or before the last day of the month next succeeding each calendar quarterly period.

Enacted by Chapter 295, 2003 General Session

59-25-105. Deposit of tax revenue.

The commission shall deposit the tax revenue collected under this chapter into the Uniform School Fund.

Enacted by Chapter 295, 2003 General Session

59-25-106. Records.

(1) An owner or operator of a hazardous waste facility or nonhazardous solid waste facility shall maintain records, statements, books, or accounts necessary to determine the amount of tax for which the owner or operator is liable under this chapter.

(2) The commission may require an owner or operator of a hazardous waste facility or nonhazardous solid waste facility, by notice served upon the person, or by rule, to make or keep the records, statements, books, or accounts the commission considers sufficient to show the amount of tax for which the owner or operator is liable under this chapter.

(3) After notice by the commission, the owner or operator of a hazardous waste facility or nonhazardous solid waste facility shall open the records, statements, books, or accounts specified in Subsection (2) for examination by the commission or its duly authorized agent.

Enacted by Chapter 295, 2003 General Session

59-25-108. Rulemaking authority.

The commission may make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement and enforce this chapter.

Amended by Chapter 382, 2008 General Session

59-25-109. Penalties and interest.

An owner or operator of a hazardous waste facility or nonhazardous solid waste facility who fails to comply with this chapter is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

Enacted by Chapter 295, 2003 General Session

59-26-101. Title.

This chapter is known as the "Multi-Channel Video or Audio Service Tax Act."

Enacted by Chapter 300, 2004 General Session

59-26-102. Definitions.

As used in this chapter:

(1) "County or municipality franchise fee" means a franchise fee that a county or municipality receives from a multi-channel video or audio service provider.

(2) "Franchise fee" is as defined in 47 U.S.C. Sec. 542, except that the term "cable operator" or "cable subscriber" shall be interpreted to include a multi-channel video or audio service provider.

(3) (a) "Multi-channel video or audio service provider" means any person or group of persons that:

(i) provides multi-channel video or audio service and directly or indirectly owns a significant interest in the multi-channel video or audio service; or

(ii) otherwise controls or is responsible through any arrangement, the management and operation of the multi-channel video or audio service.

(b) "Multi-channel video or audio service provider" includes the following except as specifically exempted by state or federal law:

(i) a cable operator;

(ii) a CATV provider;

(iii) a multi-point distribution provider;

(iv) a MMDS provider;

(v) a SMATV operator;

(vi) a direct-to-home satellite service provider; or

(vii) a DBS provider.

(4) "Municipality" means a city or town.

Amended by Chapter 288, 2007 General Session

59-26-103. Imposition of tax -- Rate.

Subject to Section 59-26-104.5, there is imposed as provided in this part a tax on the purchaser equal to 6.25% of amounts paid or charged for multi-channel video or audio service provided by a multi-channel video or audio service provider:

(1) within the state; and

(2) to the extent permitted by federal law.

Amended by Chapter 288, 2007 General Session

59-26-104. Collection of tax.

A multi-channel video or audio service provider shall:

(1) collect the tax imposed by Section 59-26-103 from the purchaser;

(2) pay the tax collected under Subsection (1) to the commission:

(a) monthly on or before the last day of the month immediately following the last day of the previous month if:

(i) the multi-channel video or audio service provider is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(ii) the multi-channel video or audio service provider is not required to file a sales and use tax return under Chapter 12, Sales and Use Tax Act; or

(b) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the multi-channel video or audio service provider is required to file a sales and use tax return with the commission quarterly under Section 59-12-108; and

(3) pay the tax collected under Subsection (1) using a form prescribed by the commission.

Amended by Chapter 309, 2011 General Session

59-26-104.5. Nonrefundable credit against tax -- Amounts passed through to customers within the state -- Tax may not be reduced by amounts passed through to customers within the state.

(1) Beginning on January 1, 2008, a multi-channel video or audio service provider may claim a nonrefundable tax credit as provided in this section.

(2) The nonrefundable tax credit described in Subsection (1):

(a) may be claimed against the tax the multi-channel video or audio service provider would otherwise be required to collect under this chapter from its purchasers within the state; and

(b) is in an amount equal to 50% of the total amount of county or municipality franchise fees that the multi-channel video or audio service provider pays:

(i) to all of the counties and municipalities within the state that impose a county or municipality franchise fee; and

(ii) for the calendar quarter for which the multi-channel video or audio service provider files a return under this chapter.

(3) The nonrefundable tax credit described in Subsection (1) may not be carried forward or carried back.

(4) (a) Subject to Subsections (4)(b) and (c), a multi-channel video or audio service provider shall pass through to its purchasers within the state an amount equal to the amount of the nonrefundable tax credit the multi-channel video or audio service provider claims for a calendar quarter.

(b) The amount that a multi-channel video or audio service provider passes through to its purchasers within the state under Subsection (4)(a) shall be passed through during the same calendar quarter as the calendar quarter for which the multi-channel video or audio service provider claims the nonrefundable tax credit.

(c) A tax under this chapter on amounts paid or charged for multi-channel video or audio service may not be reduced as a result of the amount a multi-channel video or audio service provider passes through to its customers within this state under this Subsection (4).

Enacted by Chapter 288, 2007 General Session

59-26-105. Deposit of tax revenue.

The commission shall deposit revenues generated by the tax imposed by this chapter into the General Fund.

Enacted by Chapter 300, 2004 General Session

59-26-106. Records.

(1) A multi-channel video or audio service provider shall maintain records, statements, books, or accounts necessary to determine the amount of tax that the multi-channel video or audio service provider is required to remit to the commission under this chapter.

(2) The commission may require a multi-channel video or audio service provider to make or keep the records, statements, books, or accounts the commission considers sufficient to show the amount of tax for which the multi-channel video or audio service provider is required to remit to the commission under this chapter:

(a) by notice served upon that multi-channel video or audio service provider; or

(b) by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) After notice by the commission, a multi-channel video or audio service provider shall open the records, statements, books, or accounts specified in Subsection (2) for examination by the commission or a duly authorized agent of the commission.

Amended by Chapter 382, 2008 General Session

59-26-108. Rulemaking authority.

The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement and enforce this chapter.

Amended by Chapter 382, 2008 General Session

59-26-109. Penalties and interest.

A multi-channel video or audio service provider that fails to comply with any provision of this chapter is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

Enacted by Chapter 300, 2004 General Session

59-26-110. Revenue and Taxation Interim Committee study.

The Revenue and Taxation Interim Committee shall during the 2004 interim:

(1) study the tax imposed by this chapter;

(2) recommend whether legislation should be drafted to modify any provision of this chapter; and

(3) prepare any legislation that the Revenue and Taxation Interim Committee recommends in accordance with Subsection (2) for consideration by the Legislature during the 2005 General Session.

Enacted by Chapter 300, 2004 General Session

59-27-101. Title.

This chapter is known as the "Sexually Explicit Business and Escort Service Tax."

Enacted by Chapter 214, 2004 General Session

59-27-102. Definitions.

(1) "Escort" means any individual who is available to the public for the purpose of accompanying another individual for:

(a) companionship; and

(b) (i) a salary;

(ii) a fee;

(iii) a commission;

(iv) hire;

(v) profit; or

(vi) any amount similar to an amount listed in this Subsection (1)(b).

(2) "Escort service" means any person who furnishes or arranges for an escort to accompany another individual for:

(a) companionship; and

(b) (i) a salary;

(ii) a fee;

(iii) a commission;

(iv) hire;

(v) profit; or

(vi) any amount similar to an amount listed in this Subsection (2)(b).

(3) "Nude or partially denuded individual" means an individual with any of the following less than completely and opaquely covered:

(a) genitals;
(b) the pubic region; or
(c) a female breast below a point immediately above the top of the areola.
(4) "Sexually explicit business" means a business at which any nude or partially denuded individual, regardless of whether the nude or partially denuded individual is an employee of the sexually explicit business or an independent contractor, performs any service:
(a) personally on the premises of the sexually explicit business;
(b) during at least 30 consecutive or nonconsecutive days within a calendar year; and
(c) for:
(i) a salary;
(ii) a fee;
(iii) a commission;
(iv) hire;
(v) profit; or
(vi) any amount similar to an amount listed in this Subsection (4)(c).

Enacted by Chapter 214, 2004 General Session

59-27-103. Tax imposed on a sexually explicit business -- Tax imposed on an escort service.

(1) A tax is imposed on a sexually explicit business equal to 10% of amounts paid to or charged by the sexually explicit business for the following transactions:
(a) an admission fee;
(b) a user fee;
(c) a retail sale of tangible personal property made within the state;
(d) a sale of:
(i) food and food ingredients as defined in Section 59-12-102; or
(ii) prepared food as defined in Section 59-12-102;
(e) a sale of a beverage; and
(f) any service.
(2) (a) Except as provided in Subsection (2)(b), a tax is imposed on an escort service equal to 10% of amounts paid or charged by the escort service for any transaction that involves providing an escort to another individual.
(b) Notwithstanding Subsection (2)(a), the tax imposed by Subsection (2)(a) does not apply to a transaction that is subject to the tax imposed in Subsection (1).
(3) The tax imposed by this section:
(a) may not be imposed on any sales and use tax collected or paid under Chapter 12, Sales and Use Tax Act; and
(b) is subject to an agreement sales and use tax under Chapter 12, Sales and Use Tax Act.
(4) The commission shall administer this chapter in accordance with Chapter 12, Part 1, Tax Collection.

Enacted by Chapter 214, 2004 General Session

59-27-104. Payment of tax.

(1) Subject to Subsection (2), a sexually explicit business or escort service subject to the tax imposed by this chapter shall file a return with the commission and pay the tax calculated on the return to the commission:

(a) quarterly on or before the last day of the month immediately following the last day of the previous calendar quarter if:

(i) the sexually explicit business or escort service is required to file a quarterly sales and use tax return with the commission under Section 59-12-107; or

(ii) the sexually explicit business or escort service is not required to file a sales and use tax return with the commission under Chapter 12, Sales and Use Tax Act; or

(b) monthly on or before the last day of the month immediately following the last day of the previous calendar month if the sexually explicit business is required to file a monthly sales and use tax return with the commission under Section 59-12-108.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to:

(a) establish standards for determining whether an operation is a sexually explicit business or escort service; and

(b) determine, for purposes of Section 59-27-102, amounts that are similar to an amount paid for:

(i) a salary;

(ii) a fee;

(iii) a commission;

(iv) hire; or

(v) profit.

Amended by Chapter 382, 2008 General Session

59-27-105. Sexually Explicit Business and Escort Service Fund -- Administrative charge.

(1) There is created an expendable special revenue fund called the "Sexually Explicit Business and Escort Service Fund."

(2) (a) Except as provided in Subsection (3), the fund consists of all amounts collected by the commission under this chapter.

(b) (i) The money in the fund shall be invested by the state treasurer pursuant to Title 51, Chapter 7, State Money Management Act.

(ii) All interest or other earnings derived from the fund money shall be deposited in the fund.

(3) Notwithstanding any other provision of this chapter, the commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this chapter.

(4) (a) Fund money shall be used as provided in this Subsection (4).

(b) The Department of Corrections shall use 60% of the money in the fund, in addition to existing budgets, to provide treatment services to nonworking or indigent

adults who:

(i) have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses; and

(ii) are not currently confined or incarcerated in a jail or prison.

(c) The Adult Probation and Parole section of the Department of Corrections shall use 15% of the money in the fund to provide outpatient treatment services to individuals who:

(i) have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses; and

(ii) are not currently confined or incarcerated in a jail or prison.

(d) The Department of Corrections shall use 10% of the money in the fund, in addition to existing budgets, to implement treatment programs for juveniles who have been convicted of an offense under Title 76, Chapter 5, Part 4, Sexual Offenses.

(e) The attorney general shall use 15% of the money in the fund to provide funding for any task force:

(i) administered through the Office of the Attorney General; and

(ii) that investigates and prosecutes individuals who use the Internet to commit crimes against children.

Amended by Chapter 400, 2013 General Session

59-27-106. Records.

(1) An owner or operator of a sexually explicit business or escort service shall maintain records, statements, books, or accounts necessary to determine the amount of tax for which the owner or operator is liable to pay under this chapter.

(2) The commission may require an owner or operator of a sexually explicit business or escort service, by notice served on the person, to make or keep the records, statements, books, or accounts described in Subsection (1) in a manner in which the commission considers sufficient to show the amount of tax for which the owner or operator is liable to pay under this chapter.

(3) After notice by the commission, the owner or operator of a sexually explicit business or escort service shall open the records, statements, books, or accounts specified in this section for examination by the commission or an authorized agent of the commission.

Enacted by Chapter 214, 2004 General Session

59-27-108. Penalties and interest.

An owner or operator of a sexually explicit business or escort service that fails to comply with this chapter is subject to:

(1) penalties provided in Section 59-1-401; and

(2) interest provided in Section 59-1-402.

Enacted by Chapter 214, 2004 General Session