

Effective 5/13/2014

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