

Senator John L. Valentine proposes to substitute the following bill:

TAX COMMISSION REVISIONS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: John L. Valentine

AN ACT RELATING TO REVENUE AND TAXATION; REQUIRING CERTAIN
TAXPAYERS ASSESSED BY THE STATE TAX COMMISSION TO FILE A STATEMENT
CONTAINING CERTAIN PROPERTY TAX INFORMATION; REQUIRING THE STATE TAX
COMMISSION TO PREPARE A RECORD OF ASSESSMENT FOR AIRLINES, AIR
CHARTER SERVICES, AND AIR CONTRACT SERVICES; PROVIDING PENALTIES FOR
FAILING TO FILE A PROPERTY TAX STATEMENT WITH THE STATE TAX
COMMISSION UNDER CERTAIN CIRCUMSTANCES; AUTHORIZING THE STATE TAX
COMMISSION TO EXTEND THE TIME PERIOD FOR FILING A PROPERTY TAX
STATEMENT UNDER CERTAIN CIRCUMSTANCES; ADDRESSING THE
CIRCUMSTANCES UNDER WHICH A TAXPAYER MAY CLAIM A REFUND FOR AN
OVERPAYMENT OF A SALES AND USE TAX; PROVIDING PROCEDURES FOR
CLAIMING THE REFUND; § ~~AND~~ § MAKING TECHNICAL CHANGES § ; **AND PROVIDING**
A COORDINATION CLAUSE § .

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

59-2-202, as last amended by Chapter 209, Laws of Utah 1996

59-2-204, as enacted by Chapter 4, Laws of Utah 1987

59-2-207, as enacted by Chapter 4, Laws of Utah 1987

59-12-110, as last amended by Chapter 299, Laws of Utah 1998

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

Section 1. Section **59-2-202** is amended to read:

59-2-202. Statement of taxpayer -- Penalty for failure to file statement or information

26 -- Assessment without statement -- Appeals.

27 (1) (a) A person, or an officer or agent of that person, owning or operating [~~a public utility~~
 28 ~~in this state, or owning or operating a pipeline, power, canal, irrigation, or telephone company in~~
 29 ~~more than one county in this state,]~~ property described in Subsection (1)(b) shall, on or before
 30 March 1 of each year, [~~furnish to~~] file with the commission a statement:

31 (i) signed and sworn to by the person, officer, or agent;

32 (ii) showing in detail all real property [~~, real or~~] and tangible personal [~~, owned by~~] property
 33 located in the state that the person [~~in the state, including a statement of mileage~~] owns or operates;

34 (iii) containing the number of miles of taxable tangible personal property in each county[;];

35 (A) that the person owns or operates; and

36 (B) as valued [~~at 12 o'clock m. of~~] on January 1 of the year[; ~~with~~] for which the person,
 37 officer, or agent is furnishing the statement; and

38 (iv) containing any other information [~~required by~~] the commission requires.

39 (b) Subsection (1)(a) applies to:

40 (i) the following property located in the state:

41 (A) a public utility;

42 (B) an airline;

43 (C) an air charter service; or

44 (D) an air contract service; or

45 (ii) the following property located in more than one county in the state:

46 (A) a pipeline company;

47 (B) a power company;

48 (C) a canal company;

49 (D) an irrigation company; or

50 (E) a telephone company.

51 [~~(b)~~] (c) **§ (i) §** The commission may [~~extend the time~~] allow an extension for filing the
 51a statement

52 under Subsection (1)(a)[~~, except that the extension may~~] for a time period not [~~exceed~~] exceeding

53 30 days **§ , UNLESS THE COMMISSION DETERMINES THAT EXTRAORDINARY CIRCUMSTANCES**
 53a **REQUIRE A LONGER PERIOD OF EXTENSION § .**

53b **§ (ii) THE COMMISSION SHALL GRANT A PERSON, OR AN OFFICER OR AGENT OF THAT PERSON,**
 53c **AN EXTENSION FOR FILING THE STATEMENT UNDER SUBSECTION (1)(a) FOR A TIME PERIOD NOT**
 53d **EXCEEDING 15 DAYS IF:**

53e **(A) A FEDERAL REGULATORY AGENCY REQUIRES THE TAXPAYER TO FILE A §**

53f § STATEMENT THAT CONTAINS THE SAME INFORMATION AS THE STATEMENT UNDER SUBSECTION
53g (1)(a); AND

53h (B) THE PERSON, OR AN OFFICER OR AGENT OF THAT PERSON, REQUESTS THE
53i COMMISSION TO GRANT THE EXTENSION. §

54 (2) The commission shall assess and list the property described in Subsection (1)(b) using
55 the best information obtainable by the commission if a person, or an officer or agent of that person,
56 fails to file the statement required under Subsection (1)(a) on or before the later of:

57 (a) March 1; or

58 (b) if the commission allows an extension under Subsection (1)(c) for filing the statement,
59 the day after the last day of the extension period.

60 ~~[(2) A person failing to furnish the statement under Subsection (1)(a) on or before March~~
61 ~~1 of each year, or any other information considered by the commission necessary to enable it to~~
62 ~~determine valuations for assessment purposes or for the apportionment of the assessment, shall be~~
63 ~~assessed by the]~~

64 (3) (a) Except as provided in Subsection (3)(c), the commission shall assess a person a
65 penalty [equal to 10% of the estimated tax due, except that the penalty may not be less than \$100:]
66 as provided in Subsection (3)(b), if the person, or an officer or agent of that person, fails to file:

67 (i) the statement required under Subsection (1)(a) on or before the later of:

68 (A) March 1; or

69 (B) if the commission allows an extension under Subsection (1)(c) for filing the statement,
70 the day after the last day of the extension period; or

71 (ii) any other information the commission determines to be necessary to:

72 (A) establish valuations for assessment purposes; or

73 (B) apportion an assessment.

74 (b) The penalty described in Subsection (3)(a) is an amount equal to the greater of:

75 (i) 10% of the person's estimated tax liability under this chapter for the current calendar
76 year not to exceed \$50,000; or

77 (ii) \$100.

78 (c) (i) Notwithstanding Subsection (3)(a) § **AND SUBSECTION (4) §** , the commission may
78a waive, reduce, or

79 compromise a penalty imposed under this section if the commission finds there are reasonable
80 grounds for the waiver, reduction, or compromise.

81 (ii) If the commission waives, reduces, or compromises a penalty under Subsection
82 (3)(c)(i), the commission shall make a record of the grounds for waiving, reducing, or
83 compromising the penalty.

84 ~~[(3)]~~ (4) The county treasurer shall collect the penalty imposed under Subsection [(2)] (3)
85 ~~[shall be collected according to the procedures and requirements of]~~ as provided in Section
86 59-2-1308.

87 ~~[(4)]~~ (5) A person subject to a penalty under Subsection [(2)] (3) may appeal the penalty

88 according to procedures and requirements of Title 63, Chapter 46b, Administrative Procedures
89 Act.

90 Section 2. Section **59-2-204** is amended to read:

91 **59-2-204. Record of assessment of public utility companies -- Review by county**
92 **assessor.**

93 (1) Each year, the commission shall prepare a record of assessment of the following
94 companies:

95 (a) public utility companies[-];

96 (b) airlines;

97 (c) air charter services; and

98 (d) air contract services.

99 (2) The record of assessment under Subsection (1) shall include:

100 (a) the name of [~~every~~] each person engaged in [~~any public utility~~] business within the state
101 in a company described in Subsection (1);

102 (b) for each company described in Subsection (1), the total value of all of the company's
103 tangible and intangible properties [of the person]; and

104 (c) any other information as determined by the commission.

105 [~~(2) The~~] (3) At the request of a county assessor, the commission shall provide to the
106 county assessor:

107 (a) the record of [the] assessment described in Subsection (1); and

108 (b) the information upon which the assessments and apportionments contained in the
109 record of assessment are made [are available for review upon request by a county assessor].

110 Section 3. Section **59-2-207** is amended to read:

111 **59-2-207. Statements for mines -- Penalty for failure to file statement or information**
112 **-- Assessment without statement -- Penalty -- Appeals.**

113 (1) (a) [~~The owner or operator, as provided in this part, of every mine or mining claim and~~
114 ~~other valuable mineral deposits, including lands containing coal or hydrocarbons,]~~ A person, or
115 an officer or agent of that person, owning or operating property described in Subsection (1)(b) shall
116 file with the commission, [in] on a form prescribed by the [commissioner] commission, a sworn
117 statement [with the commission] on or before March 1 of each year[-. The statement shall set out
118 in detail any information required by the commission.];

119 (i) showing in detail all real property and tangible personal property located in the state
 120 that the person owns or operates; and

121 (ii) containing any other information the commission requires.

122 (b) Subsection (1)(a) applies to the following property:

123 (i) a mine;

124 (ii) a mining claim; or

125 (iii) a valuable mineral deposit, including lands containing coal or hydrocarbons.

126 (c) § (i) § The commission may allow an extension for filing the statement under Subsection
 127 (1)(a) for a time period not exceeding 30 days § , UNLESS THE COMMISSION DETERMINES THAT
 127a EXTRAORDINARY CIRCUMSTANCES REQUIRE A LONGER PERIOD OF EXTENSION § .

127b § (ii) THE COMMISSION SHALL GRANT A PERSON, OR AN OFFICER OR AGENT OF THAT PERSON,
 127c AN EXTENSION FOR FILING THE STATEMENT UNDER SUBSECTION (1)(a) FOR A TIME PERIOD NOT
 127d EXCEEDING 15 DAYS IF:

127e (A) A FEDERAL REGULATORY AGENCY REQUIRES THE TAXPAYER TO FILE A STATEMENT
 127f THAT CONTAINS THE SAME INFORMATION AS THE STATEMENT UNDER SUBSECTION (1)(a); AND

127g (B) THE PERSON, OR AN OFFICER OR AGENT OF THAT PERSON, REQUESTS THE
 127h COMMISSION TO GRANT THE EXTENSION. §

128 (2) [~~If any~~] The commission shall assess and list the property described in Subsection
 129 (1)(b) using the best information obtainable by the commission if a person, or an officer or agent
 130 of that person, fails to file the statement required under Subsection (1)[~~; the commission shall~~
 131 assess and list the property using the best information obtainable by the commission.] on or before
 132 the later of:

133 (a) March 1; or

134 (b) if the commission allows an extension under Subsection (1)(c) for filing the statement,
 135 the day after the last day of the extension period.

136 (3) (a) [~~Any person who willfully refuses, upon demand, to furnish the statement required~~
 137 under Subsection (1), is subject to the same penalties as provided under Section 59-2-307. Failure
 138 to furnish the statement following a renewed demand, after conviction, constitutes a separate
 139 offense.] Except as provided in Subsection (3)(c), the commission shall assess a person a penalty
 140 as provided in Subsection (3)(b), if the person, or an officer or agent of that person, fails to file:

141 (i) the statement required under Subsection (1)(a) on or before the later of:

142 (A) March 1; or

143 (B) if the commission allows an extension under Subsection (1)(c) for filing the statement,
 144 the day after the last day of the extension period; or

145 (ii) any other information the commission determines to be necessary to:

146 (A) establish valuations for assessment purposes; or

147 (B) apportion an assessment.

148 (b) The penalty described in Subsection (3)(a) is an amount equal to the greater of:

149 (i) 10% of the person's estimated tax liability under this chapter for the current calendar

150 year not to exceed \$50,000; or

151 (ii) \$100.

152 (c) (i) Notwithstanding Subsection (3)(a) § **AND SUBSECTION (4)** § , the commission may
 152a waive, reduce, or

153 compromise a penalty imposed under this section if the commission finds there are reasonable
 154 grounds for the waiver, reduction, or compromise.

155 (ii) If the commission waives, reduces, or compromises a penalty under Subsection
 156 (3)(c)(i), the commission shall make a record of the grounds for waiving, reducing, or
 157 compromising the penalty.

158 (4) The county treasurer shall collect the penalty imposed under Subsection (3) as provided
 159 in Section 59-2-1308.

160 (5) A person subject to a penalty under Subsection (3) may appeal the penalty according
 161 to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act.

162 Section 4. Section **59-12-110** is amended to read:

163 **59-12-110. Overpayments, deficiencies, and refunds procedures.**

164 (1) (a) As soon as practicable after a return is filed, the commission shall examine the
 165 return.

166 (b) If the commission determines that the correct amount of tax to be remitted is greater
 167 or less than the amount shown to be due on the return, the commission shall recompute the tax.

168 (c) If the amount paid exceeds the amount due, the excess, plus interest as provided in
 169 Section 59-1-402, shall be credited or refunded to the taxpayer as provided in Subsection (2).

170 (d) The commission may not credit or refund to the taxpayer interest on an overpayment
 171 under Subsection (1)(c) if the commission determines that the overpayment was made for the
 172 purpose of investment.

173 (2) (a) If a taxpayer pays a tax, penalty, or interest more than once or the commission
 174 erroneously receives, collects, or computes any tax, penalty, or interest, including an overpayment
 175 described in Subsection (1)(c), the commission shall:

176 (i) credit the amount of tax, penalty, or interest paid by the taxpayer against any amounts
 177 of tax, penalties, or interest the taxpayer owes; and

178 (ii) refund any balance to the taxpayer or the taxpayer's successors, administrators,
 179 executors, or assigns.

180 (b) Except as provided in Subsection (2)(c), a taxpayer shall file a claim with the

181 commission to obtain a refund or credit under this Subsection (2) within three years from the day
182 on which the taxpayer overpaid the tax, penalty, or interest.

183 (c) Notwithstanding Subsection (2)(b), beginning on July 1, 1998, the commission shall
184 extend the period for a taxpayer to file a claim under Subsection (2)(b) if:

185 (i) the three-year period under Subsection (2)(b) has not expired; and

186 (ii) the commission and the taxpayer sign a written agreement:

187 (A) authorizing the extension; and

188 (B) providing for the length of the extension.

189 (d) A taxpayer may file a claim to obtain a refund or credit under this Subsection (2)
190 regardless of whether the taxpayer received or objected to a notice of deficiency or a notice of
191 assessment as provided in Subsection 59-12-114(1).

192 (e) A taxpayer may obtain a refund under this Subsection (2) of a tax paid under this
193 chapter on a sale or use that is taxable under Section 59-12-103 if:

194 (i) the sale or use was exempt from sales and use taxes under Section 59-12-104 on the
195 date of purchase; and

196 (ii) except as provided in Subsection (2)(c), the taxpayer files a claim for a refund with the
197 commission as provided in Subsections (2)(b) through (d).

198 [~~e~~] (f) If the commission denies a claim for a refund or credit under this Subsection (2),
199 the taxpayer may request a redetermination of the denial by filing a petition or request for agency
200 action with the commission as provided in Title 63, Chapter 46b, Administrative Procedures Act.

201 (3) If the commission erroneously determines an amount to be due from a taxpayer, the
202 commission shall authorize the amounts to be cancelled upon its records.

203 (4) (a) Subject to the provisions of Subsection (4)(b), the commission may impose on a
204 deficiency under this section:

205 (i) a penalty as provided in Section 59-1-401; and

206 (ii) interest as provided in Section 59-1-402.

207 (b) The commission may impose a penalty and interest on the entire deficiency if any part
208 of the deficiency is due to:

209 (i) negligence;

210 (ii) intentional disregard of law or rule; or

211 (iii) fraud with intent to evade the tax.

212 (5) (a) Except as provided in Subsection (5)(b), a taxpayer shall pay a tax deficiency,
213 including penalties or interest under this section, within ten days after the commission provides
214 the taxpayer notice and demand of the deficiency, penalty, or interest.

215 (b) Notwithstanding Subsection (5)(a), a taxpayer may pay a tax deficiency, penalty, or
216 interest within 30 days after the commission provides the taxpayer notice and demand of the
217 deficiency, penalty, or interest if the commission determines:

218 (i) that a greater amount was due than was shown on the return; and

219 (ii) the tax is not in jeopardy.

220 (6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall assess
221 the amount of taxes imposed by this chapter, and any penalties and interest, within three years after
222 a taxpayer files a return.

223 (b) Except as provided in Subsections (6)(c) through (f), if the commission does not make
224 an assessment under Subsection (6)(a) within three years, the commission may not commence a
225 proceeding for the collection of the taxes after the expiration of the three-year period.

226 (c) Notwithstanding Subsections (6)(a) and (b), the commission may make an assessment
227 or commence a proceeding to collect a tax at any time if a deficiency is due to:

228 (i) fraud; or

229 (ii) failure to file a return.

230 (d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the commission
231 may extend the period to make an assessment or to commence a proceeding to collect the tax under
232 this chapter if:

233 (i) the three-year period under this Subsection (6) has not expired; and

234 (ii) the commission and the taxpayer sign a written agreement:

235 (A) authorizing the extension; and

236 (B) providing for the length of the extension.

237 (e) If the commission delays an audit at the request of a taxpayer, the commission may
238 make an assessment as provided in Subsection (6)(f) if:

239 (i) the taxpayer subsequently refuses to agree to an extension request by the commission;

240 and

241 (ii) the three-year period under this Subsection (6) expires before the commission
242 completes the audit.

- 243 (f) An assessment under Subsection (6)(e) shall be:
- 244 (i) for the time period for which the commission could not make an assessment because
- 245 of the expiration of the three-year period; and
- 246 (ii) in an amount equal to the difference between:
- 247 (A) the commission's estimate of the amount of taxes the taxpayer would have been
- 248 assessed for the time period described in Subsection (6)(f)(i); and
- 249 (B) the amount of taxes the taxpayer actually paid for the time period described in
- 250 Subsection (6)(f)(i).

250a **§ Section 5. Coordination clause.**

250b **IF THIS BILL AND S.B. 76, SALES AND USE TAX EXEMPTION FOR POLLUTION CONTROL**
250c **FACILITIES, BOTH PASS, IT IS THE INTENT OF THE LEGISLATURE THAT SUBSECTION**
250d **59-12-110(2)(b) SHALL READ:**

250e **"(2) Except as provided in Subsection (2)(c) OR SECTION 19-2-124, a taxpayer shall file a**
claim
250f **with the commission to obtain a refund or credit under this Subsection (2) within three years from the**
250g **day on which the taxpayer overpaid the tax, penalty, or interest." §**