

**INDIVIDUAL INCOME TAX - ESTIMATED
TAX PAYMENTS AND USE OF REVENUES
FOR EDUCATION**

2000 GENERAL SESSION

STATE OF UTAH

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18 AN ACT RELATING TO THE INDIVIDUAL INCOME TAX ACT; REQUIRING TAXPAYERS
19 TO MAKE ESTIMATED TAX PAYMENTS TO THE STATE TAX COMMISSION UNDER
20 CERTAIN CIRCUMSTANCES; PROVIDING REQUIREMENTS FOR MAKING ESTIMATED
21 TAX PAYMENTS TO THE STATE TAX COMMISSION; PROVIDING PURPOSES FOR
22 WHICH REVENUES GENERATED BY THE ESTIMATED TAX PAYMENT ACT MAY BE
23 USED; AND MAKING TECHNICAL CHANGES.

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

25 AMENDS:

26 **59-1-401**, as last amended by Chapter 205, Laws of Utah 1995

27 ENACTS:

28 **59-10-1001**, Utah Code Annotated 1953

29 **59-10-1002**, Utah Code Annotated 1953

30 **59-10-1003**, Utah Code Annotated 1953

31 **59-10-1004**, Utah Code Annotated 1953

32 **59-10-1005**, Utah Code Annotated 1953

33 **59-10-1006**, Utah Code Annotated 1953

34 This act enacts uncodified material.

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

36 Section 1. Section **59-1-401** is amended to read:

37 **59-1-401. Penalties.**

38 (1) (a) The penalty for failure to file a tax return within the time prescribed by law
39 including extensions is the greater of \$20 or 10% of the unpaid tax due on the return.

40 (b) Subsection (1) does not apply to amended returns.

41 (2) The penalty for failure to pay tax due shall be the greater of \$20 or 10% of the unpaid
42 tax for:

43 (a) failure to pay any tax, as reported on a timely filed return;

44 (b) failure to pay any tax within 90 days of the due date of the return, if there was a late
45 filed return subject to the penalty provided under Subsection (1)(a);

46 (c) failure to pay any tax within 30 days of the date of mailing any notice of deficiency of
47 tax unless a petition for redetermination or a request for agency action is filed within 30 days of
48 the date of mailing the notice of deficiency;

49 (d) failure to pay any tax within 30 days after the date the commission's order constituting
50 final agency action resulting from a timely filed petition for redetermination or request for agency
51 action is issued or is considered to have been issued under Subsection 63-46b-13(3)(b); and

52 (e) failure to pay any tax within 30 days after the date of a final judicial decision resulting
53 from a timely filed petition for judicial review.

54 (3) (a) (i) Beginning January 1, 1995, in the case of any failure to pay or underpayment of
55 estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and
56 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate
57 provided under Section 59-1-402 plus four percentage points to the amount of the underpayment
58 for the period of the underpayment.

59 (ii) For taxable years beginning on or after January 1, 2001, if a taxpayer fails to pay or
60 underpays an estimated tax payment under Section 59-10-1004, there shall be added a penalty in
61 an amount determined by applying the interest rate provided under Section 59-1-402 plus three

62 percentage points to the amount of the underpayment for the period of the underpayment.

63 (b) (i) For purposes of Subsection (3)(a), the amount of the underpayment shall be the
64 excess of the required installment over the amount, if any, of the installment paid on or before the
65 due date for the installment.

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

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

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

70 (iii) For purposes of this Subsection (3), a payment of estimated tax shall be credited
71 against unpaid required installments in the order in which the installments are required to be paid.

72 (4) (a) In case of an extension of time to file an individual income tax or corporate
73 franchise tax return, if the lesser of 90% of the total tax reported on the tax return or 100% of the
74 prior year's tax is not paid by the due date of the return, not including extensions, a 2% per month
75 penalty shall apply on the unpaid tax during the period of extension.

76 (b) If a return is not filed within the extension time period as provided in Section 59-7-505
77 or 59-10-516, penalties as provided in Subsection (1) and Subsection (2)(b) shall be added in lieu
78 of the penalty assessed under this subsection as if no extension of time for filing a return had been
79 granted.

80 (5) (a) Additional penalties for underpayments of tax are as follows:

81 (i) If any underpayment of tax is due to negligence, the penalty is 10% of the
82 underpayment.

83 (ii) If any underpayment of tax is due to intentional disregard of law or rule, the penalty
84 is 15% of the underpayment.

85 (iii) For intent to evade the tax, the penalty is the greater of \$500 per period or 50% of the
86 tax due.

87 (iv) If the underpayment is due to fraud with intent to evade the tax, the penalty is the
88 greater of \$500 per period or 100% of the underpayment.

89 (b) If the commission determines that a person is liable for a penalty imposed under
90 Subsection (5)(a)(ii), (iii), or (iv), the commission shall notify the taxpayer of the proposed penalty.

91 (i) The notice of proposed penalty shall:

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

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

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

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

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

98 (iii) Any person against whom a penalty has been proposed in accordance with this
99 subsection may contest the proposed penalty by filing a petition for an adjudicative proceeding
100 with the commission.

101 (iv) If the commission determines that a person is liable for a penalty under this subsection,
102 the commission shall assess the penalty and give notice and demand for payment. The notice and
103 demand for payment shall be mailed by registered mail, postage prepaid, to the person's last-known
104 address.

105 (6) The penalty for failure to file an information return or a complete supporting schedule
106 is \$50 for each return or schedule up to a maximum of \$1,000.

107 (7) If any taxpayer, in furtherance of a frivolous position, has a prima facie intent to delay
108 or impede administration of the tax law and files a purported return that fails to contain
109 information from which the correctness of reported tax liability can be determined or that clearly
110 indicates that the tax liability shown must be substantially incorrect, the penalty is \$500.

111 (8) For monthly payment of sales and use taxes under Section 59-12-108, in addition to
112 any other penalties for late payment, a vendor may not retain a percentage of sales and use taxes
113 collected as otherwise allowable under Section 59-12-108.

114 (9) As provided in Section 76-8-1101, the following are criminal penalties:

115 (a) Any person who is required by this title or any laws the commission administers or
116 regulates to register with or obtain a license or permit from the commission, or who operates
117 without having registered or secured a license or permit, or who operates when the registration,
118 license, or permit is expired or not current, is guilty of a class B misdemeanor, except that,
119 notwithstanding Section 76-3-301, the fine is not less than \$500 nor more than \$1,000.

120 (b) Any person who, with intent to evade any tax or requirement of this title or any lawful
121 requirement of the commission, fails to make, render, sign, or verify any return or to supply any
122 information within the time required under this title, or who makes, renders, signs, or verifies any
123 false or fraudulent return or statement, or who supplies any false or fraudulent information, is

124 guilty of a third degree felony, except that, notwithstanding Section 76-3-301, the fine is not less
125 than \$1,000 nor more than \$5,000.

126 (c) Any person who willfully attempts to evade or defeat any tax or the payment thereof
127 is, in addition to other penalties provided by law, guilty of a second degree felony, except that,
128 notwithstanding Section 76-3-301, the fine is not less than \$1,500 nor more than \$25,000.

129 (d) The statute of limitations for prosecution for a violation of this section is six years from
130 the date the tax should have been remitted.

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

134 Section 2. Section **59-10-1001** is enacted to read:

135 **Part 10. Estimated Tax Payment Act**

136 **59-10-1001. Title.**

137 This part is known as the "Estimated Tax Payment Act."

138 Section 3. Section **59-10-1002** is enacted to read:

139 **59-10-1002. Definitions.**

140 As used in this part:

141 (1) "Adjusted state tax liability" means the difference between:

142 (a) a taxpayer's tax liability under this chapter for the taxable year; and

143 (b) any credits the taxpayer may claim under this chapter for the taxable year.

144 (2) "Adjusted state tax liability after withholding" means the difference between:

145 (a) the taxpayer's adjusted state tax liability; and

146 (b) the total amount an employer withholds for the taxable year under Part 4.

147 (3) "Calendar year taxpayer" means a taxpayer that:

148 (a) meets the requirements of Subsection 59-10-1003(1); and

149 (b) has a taxable year that:

150 (i) begins on January 1; and

151 (ii) is for a 12-month period.

152 (4) "Estimated tax payment threshold" means an amount of adjusted state tax liability after
153 withholding that is equal to \hat{h} [~~\$1,000~~] **\$2,000** \hat{h} for a taxpayer that files a return under this chapter,
153a regardless

154 of the taxpayer's filing status.

155 (5) "Farmer" is as defined in Section 6654, Internal Revenue Code.

156 (6) "Fiscal year taxpayer" means a taxpayer that:

157 (a) meets the requirements of Subsection 59-10-1003(1); and

158 (b) has a taxable year that:

159 (i) begins on a day other than January 1; and

160 (ii) is for a 12-month period.

161 (7) "Fisherman" is as defined in Section 6654, Internal Revenue Code.

162 (8) "Required annual payment" means:

163 (a) for a taxpayer other than a farmer or fisherman, an amount equal to the lesser of:

164 (i) 90% of the taxpayer's adjusted state tax liability for the taxable year; or

165 (ii) 100% of the taxpayer's adjusted state tax liability for the previous taxable year if:

166 (A) that taxable year was for a period of 12 months; and

167 (B) the taxpayer filed a return under this chapter for that taxable year; or

168 (b) for a farmer or fisherman, an amount equal to the lesser of:

169 (i) 66-2/3% of the farmer's or fisherman's adjusted state tax liability for the taxable year;

170 or

171 (ii) 100% of the farmer's or fisherman's adjusted state tax liability for the previous taxable
172 year if:

173 (A) that taxable year was for a period of 12 months; and

174 (B) the taxpayer filed a return under this chapter for that taxable year.

175 (9) "Required annual payment after withholding" means the difference between:

176 (a) a taxpayer's required annual payment; and

177 (b) the total amount an employer withholds for the taxable year under Part 4.

178 (10) "Taxpayer's tax liability under this chapter for the taxable year" means the product

179 of:

180 (a) the taxpayer's state taxable income for the taxable year; and

181 (b) the \hat{h} [amount of] \hat{h} tax \hat{h} RATE \hat{h} imposed under this chapter for the taxable year on

181a the amount

182 described in Subsection (10)(a).

183 Section 4. Section **59-10-1003** is enacted to read:

184 **59-10-1003. Estimated tax payments -- Required annual payment.**

185 (1) For taxable years beginning on or after January 1, 2001, a taxpayer shall pay to the

186 commission as provided in this part one or more estimated tax payments if on the last day of the
187 taxpayer's taxable year the taxpayer's adjusted state tax liability after withholding for the taxable
188 year will be greater than or equal to the estimated tax payment threshold.

189 (2) (a) For taxable years beginning on or after January 1, 2001, a taxpayer described in
190 Subsection (1) shall make a required annual payment to the commission.

191 (b) The required annual payment under Subsection (2)(a) shall be made by:

192 (i) employer withholding as provided in Part 4;

193 (ii) the taxpayer making to the commission as provided in this part one or more estimated
194 tax payments; or

195 (iii) a combination of Subsections (2)(b)(i) and (ii).

196 Section 5. Section **59-10-1004** is enacted to read:

197 **59-10-1004. Payment schedule for estimated tax payments -- Taxpayers having a**
198 **taxable year beginning on January 1 -- Taxpayers having a taxable year beginning on a date**
199 **other than January 1 -- Taxpayers meeting estimated tax payment threshold on or after**
200 **April 1 -- Change in payments if taxpayer's tax liability changes.**

201 (1) A taxpayer required to make estimated tax payments to the commission under this part
202 shall make the estimated tax payments as provided in this section.

203 (2) (a) Except as provided in Subsections (4) through (6), a calendar year taxpayer shall
204 make four estimated tax payments:

205 (i) as provided in this Subsection (2); and

206 (ii) that are each equal to 25% of the required annual payment after withholding.

207 (b) A taxpayer shall make the estimated tax payments described in Subsection (2)(a) on
208 or before:

209 (i) April 15 of the taxable year;

210 (ii) June 15 of the taxable year;

211 (iii) September 15 of the taxable year; and

212 (iv) January 15 of the year after the taxable year.

213 (3) (a) Except as provided in Subsections (5) and (6), a fiscal year taxpayer shall make four
214 estimated tax payments:

215 (i) as provided in this Subsection (3); and

216 (ii) that are each equal to 25% of the required annual payment after withholding.

217 (b) A taxpayer shall make the estimated tax payments described in Subsection (3)(a) on
218 or before the 15th day of the:

- 219 (i) fourth month of the taxable year;
- 220 (ii) sixth month of the taxable year;
- 221 (iii) ninth month of the taxable year; and
- 222 (iv) first month of the year after the taxable year.

223 (4) (a) Notwithstanding Subsection (2) and except as provided in Subsections (5) and (6),
224 for a taxable year a calendar year taxpayer shall make estimated tax payments as provided in this
225 Subsection (4) if:

226 (i) on March 31 of the taxable year the taxpayer's adjusted state tax liability after
227 withholding for the taxable year will be less than the estimated tax payment threshold on the last
228 day of the taxpayer's taxable year; and

229 (ii) on or after April 1 of the taxable year the taxpayer's adjusted state tax liability after
230 withholding for the taxable year will be greater than or equal to the estimated tax payment
231 threshold on the last day of the taxpayer's taxable year.

232 (b) If, on or after April 1 but on or before May 31 of the taxable year, a taxpayer's adjusted
233 state tax liability after withholding for the taxable year will be greater than or equal to the
234 estimated tax payment threshold on the last day of the taxpayer's taxable year, the taxpayer shall
235 pay:

236 (i) 50% of the required annual payment after withholding on or before June 15 of the
237 taxable year;

238 (ii) 25% of the required annual payment after withholding on or before September 15 of
239 the taxable year; and

240 (iii) 25% of the required annual payment after withholding on or before January 15 of the
241 year after the taxable year.

242 (c) If, on or after June 1 but on or before August 31 of the taxable year, a taxpayer's
243 adjusted state tax liability after withholding for the taxable year will be greater than or equal to the
244 estimated tax payment threshold on the last day of the taxpayer's taxable year, the taxpayer shall
245 pay:

246 (i) 75% of the required annual payment after withholding on or before September 15 of
247 the taxable year; and

248 (ii) 25% of the required annual payment after withholding on or before January 15 of the
249 year after the taxable year.

250 (d) If, on or after September 1 of the taxable year, a taxpayer's adjusted state tax liability
251 after withholding for the taxable year will be greater than or equal to the estimated tax payment
252 threshold on the last day of the taxpayer's taxable year, the taxpayer shall pay 100% of the required
253 annual payment after withholding on or before January 15 of the year after the taxable year.

254 (5) For purposes of Subsections (2) through (4), if after making an estimated tax payment
255 a taxpayer's adjusted state tax liability after withholding changes, the taxpayer shall proportionally
256 increase or decrease the taxpayer's remaining estimated tax payments for the taxable year so that
257 the balance of the required annual payment after withholding is made in equal installments.

258 (6) Notwithstanding Subsections (2) through (4), a farmer or fisherman shall make one
259 estimated tax payment for the taxable year:

260 (a) on or before the 15th day after the last day of the farmer's or fisherman's taxable year;
261 and

262 (b) in an amount equal to the total amount of the required annual payment after
263 withholding.

264 Section 6. Section **59-10-1005** is enacted to read:

265 **59-10-1005. Taxpayers having a taxable year of less than 12 months -- Rulemaking**
266 **authority.**

267 In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
268 commission shall make rules providing for estimated tax payments for a taxpayer having a taxable
269 year of less than 12 months.

270 Section 7. Section **59-10-1006** is enacted to read:

271 **59-10-1006. Penalties -- Exceptions to penalties.**

272 (1) Except as provided in Subsections (2) and (3), a taxpayer shall pay a penalty as
273 provided in Section 59-1-401 if the taxpayer fails to pay or underpays an estimated tax payment
274 under Section 59-10-1004.

275 (2) Notwithstanding Subsection (1) and except as provided in Subsection (3), the
276 commission may waive, reduce, or compromise the penalty described in Subsection (1).

277 (3) Notwithstanding Subsections (1) and (2), in accordance with Title 63, Chapter 46a,
278 Utah Administrative Rulemaking Act, the commission shall make rules providing for the following

279 exceptions to the penalty described in Subsection (1):

280 (a) an exception that is consistent with Section 6654(e)(1), Internal Revenue Code;

281 (b) an exception that is consistent with Section 6654(e)(2), Internal Revenue Code;

282 (c) an exception for a taxpayer's failure to pay the final estimated tax payment for a taxable
 283 year that is consistent with Section 6654(h), Internal Revenue Code;

284 (d) an exception for a farmer's or fisherman's failure to pay the estimated tax payment
 285 required by Subsection 59-10-1004(6) that is consistent with Section 6654(i), Internal Revenue
 286 Code;

287 (e) an exception that is consistent with Section 6658(a), Internal Revenue Code; and

288 (f) an exception for the first year that a taxpayer is required to file a return under this
 289 chapter if the individual:

290 (i) files the return under this chapter on or before the due date provided for under this
 291 chapter for filing the return; and

292 (ii) pays in full the amount of tax due for the taxable year.

293 **Section 8. Expenditure of certain revenues generated by the Required Annual**
 294 **Payment and Estimated Tax Payment Act.**

295 (1) Beginning on January 1, 2001, through June 30, 2001, the revenues collected under
 296 Title 59, Chapter 10, Part 10, Estimated Tax Payment Act, shall be ~~h~~ [**expended as follows:**]
 296a **DEPOSITED INTO THE STATE SCHOOL FUND ESTABLISHED BY UTAH CONSTITUTION ARTICLE X,**
 296b **SECTION 5. ~~h~~**

297 **~~h [(a) 75% of the revenues shall be allocated to the State Board of Education created by Title~~**
 298 **~~53A, Chapter 1, Part 1, State Board of Education, to be distributed to school districts as provided~~**
 299 **~~in this section for:~~**

300 **~~—— (i) textbooks;~~**

301 **~~—— (ii) libraries;~~**

302 **~~—— (iii) science lab supplies;~~**

303 **~~—— (iv) other instructional materials; or~~**

304 **~~—— (v) a combination of Subsections (1)(a)(i) through (iv); and~~**

305 **~~—— (b) 25% of the revenues shall be allocated to the State Board of Regents created by Title~~**
 306 **~~53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, to be distributed to the~~**
 307 **~~institutions described in Subsections 53B-1-102(1)(b) through (k) for:~~**

308 **~~—— (i) libraries;~~**

309 **~~—— (ii) science lab supplies;]~~ ~~h~~**

310 ~~h [(iii) applied technology education supplies;~~
 311 ~~—— (iv) other instructional materials; or~~
 312 ~~—— (v) a combination of Subsections (1)(b)(i) through (iv);~~
 313 ~~—— (2) (a) For purposes of the allocations described in Subsection (1)(a), the State Board of~~
 314 ~~Education shall distribute the allocations to school districts on the basis of the ratio of a school~~
 315 ~~district's average daily membership to the state total average daily membership.~~
 316 ~~—— (b) For purposes of the allocations described in Subsection (1)(b), the State Board of~~
 317 ~~Regents shall develop criteria for distributing the allocations to the institutions described in~~
 318 ~~Subsections 53B-1-102(1)(b) through (k).] h~~

Legislative Review Note

as of 2-10-00 10:36 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel