

**AMENDMENTS TO INDIVIDUAL INCOME TAX
RETURN FILING REQUIREMENTS**

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Todd E. Kiser

LONG TITLE

Committee Note:

The Revenue and Taxation Interim Committee recommended this bill.

General Description:

This bill amends the Individual Income Tax Act to address return filing requirements.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of electronic;
- ▶ repeals the definition of scan technology;
- ▶ repeals a requirement that under certain circumstances an income tax return preparer file a return by scan technology;
- ▶ repeals related provisions addressing scan technology; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation for a taxable year beginning on or after January 1, 2010.

Utah Code Sections Affected:

AMENDS:



28 59-10-514.1, as last amended by Laws of Utah 2008, Chapter 382



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

31 Section 1. Section 59-10-514.1 is amended to read:

32 **59-10-514.1. Definitions -- Requirement to file returns using scan technology or**
33 **by electronic means -- Exceptions -- Waiver.**

34 (1) As used in this section:

35 [~~(a) (i) "electronic" means using a technology other than scan technology; and]~~

36 [~~(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
37 ~~the commission may make rules defining "technology";]~~

38 (a) "Electronic" is as defined in Section 59-12-102.

39 (b) (i) [~~except~~] Except as provided in Subsection (1)(b)(ii), "income tax return
40 preparer" means an individual that prepares for compensation a return required to be filed by
41 this chapter[;].

42 (ii) [~~notwithstanding Subsection (1)(b)(i), "income]~~ Income tax return preparer" does
43 not include an individual who:

44 (A) performs only one or more of the following relating to a return required to be filed
45 by this chapter:

46 (I) types the return;

47 (II) reproduces the return; or

48 (III) performs an action similar to Subsection (1)(b)(ii)(A)(I) or (II) as determined by
49 the commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
50 Rulemaking Act; or

51 (B) prepares a return required to be filed by this chapter:

52 (I) of the individual's employer or an officer or employee of the employer if the
53 individual is regularly and continuously employed by that employer;

54 (II) of any person if that individual is a fiduciary for that person; or

55 (III) for a taxpayer in response to a tax order issued to that taxpayer[;].

56 (c) "[~~prepare~~] Prepare" means to prepare a substantial portion or more of a return
57 required to be filed by this chapter[;].

58 (d) (i) [~~except~~] Except as provided in Subsection (1)(d)(ii), "qualifying return" means a

59 return required to be filed by this chapter for any taxable year that begins on or after the
60 January 1 described in Subsection (2)(c)(i)~~[-and]~~.

61 (ii) ~~[notwithstanding Subsection (1)(d)(i), "qualifying]~~ "Qualifying return" does not
62 include:

63 (A) an amended return; or

64 (B) (I) a return filed for any taxable year that begins before the first day of the current
65 taxable year; and

66 (II) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
67 commission may make rules defining "current taxable year"~~[-and]~~.

68 ~~[(e) (i) "scan technology" means technology that:]~~

69 ~~[(A) allows a return to be scanned; and]~~

70 ~~[(B) is approved by the commission; and]~~

71 ~~[(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
72 ~~the commission may by rule specify what types of technology constitute scan technology.]~~

73 (2) (a) Subject to Subsections (2)(b) and (c) and except as provided in Subsection (3),
74 an income tax return preparer shall file all qualifying returns ~~[using scan technology or]~~ by
75 electronic means if the income tax return preparer prepares in any calendar year beginning on
76 or after January 1, 2005, a total of 101 or more returns required to be filed by this chapter.

77 (b) (i) For purposes of Subsection (2)(a), if two or more income tax return preparers are
78 affiliated with the same establishment, the total number of returns required to be filed by this
79 chapter that are prepared in a calendar year beginning on or after January 1, 2005, by all of the
80 income tax return preparers that are affiliated with that establishment shall be included in
81 determining whether an income tax return preparer prepares in a calendar year beginning on or
82 after January 1, 2005, a total of 101 or more returns required to be filed by this chapter.

83 (ii) For purposes of Subsection (2)(b)(i), in accordance with Title 63G, Chapter 3, Utah
84 Administrative Rulemaking Act, the commission may by rule determine the circumstances
85 under which two or more income tax return preparers are affiliated with the same
86 establishment.

87 (c) If an income tax return preparer is required by this Subsection (2) to file all
88 qualifying returns ~~[using scan technology or]~~ by electronic means, the income tax return
89 preparer shall file those qualifying returns ~~[using scan technology or]~~ by electronic means:

90 (i) beginning on January 1 of the first calendar year immediately following the day on
91 which the income tax return preparer meets the requirements of this Subsection (2); and

92 (ii) for all calendar years after the calendar year described in Subsection (2)(c)(i).

93 (3) ~~[Notwithstanding Subsection (2), an]~~ An income tax return preparer is not required
94 to file a qualifying return ~~[using scan technology or]~~ by electronic means if:

95 (a) a schedule required to be attached to the qualifying return cannot be filed ~~[using~~
96 ~~scan technology or]~~ by electronic means;

97 (b) the taxpayer for which the qualifying return is prepared requests in writing that the
98 income tax return preparer not file the qualifying return ~~[using scan technology or]~~ by
99 electronic means; or

100 (c) subject to Subsection (4), the commission waives for one or more qualifying returns
101 filed by the income tax return preparer the requirement imposed by this section to file the
102 qualifying returns ~~[using scan technology or]~~ by electronic means.

103 (4) (a) For purposes of Subsection (3)(c), the commission may waive for one or more
104 qualifying returns filed by an income tax return preparer the requirement imposed by this
105 section to file the qualifying returns ~~[using scan technology or]~~ by electronic means if the
106 income tax return preparer demonstrates to the commission that it would be an undue hardship
107 to file the qualifying returns ~~[using scan technology or]~~ by electronic means.

108 (b) For purposes of Subsection (4)(a) and in accordance with Title 63G, Chapter 3,
109 Utah Administrative Rulemaking Act, the commission shall by rule define the circumstances
110 that constitute an undue hardship to file a qualifying return ~~[using scan technology or]~~ by
111 electronic means.

112 Section 2. **Retrospective operation.**

113 This bill has retrospective operation for a taxable year beginning on or after January 1,
114 2010.

Legislative Review Note
as of 11-20-09 6:48 AM

Office of Legislative Research and General Counsel

S.B. 28 - Amendments to Individual Income Tax Return Filing Requirements

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill reduces Tax Commission processing expenses by \$70,000.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
General Fund	\$0	(\$28,100)	(\$28,100)	\$0	\$0	\$0
Uniform School Fund	\$0	(\$31,000)	(\$31,000)	\$0	\$0	\$0
Dedicated Credits	\$0	(\$3,400)	(\$3,400)	\$0	\$0	\$0
Restricted Funds	\$0	(\$7,500)	(\$7,500)	\$0	\$0	\$0
Total	\$0	(\$70,000)	(\$70,000)	\$0	\$0	\$0

Individual, Business and/or Local Impact

Tax return preparation businesses will be required to file electronically and may incur an additional cost in so doing. Additional costs may be passed on to consumers. Local government entities are unaffected.
