

TAX, FEE, OR CHARGE OFFENSE AND PENALTY

AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends provisions related to offenses and penalties.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to offenses and penalties for purposes of a tax, fee, or charge administered by the State Tax Commission; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-1-401, as last amended by Laws of Utah 2012, Chapters 312 and 357

76-8-1101, as last amended by Laws of Utah 2009, Chapter 336

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

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

59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.

30 (1) As used in this section:

31 (a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the
32 commission:

33 (i) has implemented the commission's GenTax system; and

34 (ii) at least 30 days before implementing the commission's GenTax system as described
35 in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website
36 stating:

37 (A) the date the commission will implement the GenTax system with respect to the tax,
38 fee, or charge; and

39 (B) that, at the time the commission implements the GenTax system with respect to the
40 tax, fee, or charge:

41 (I) a person that files a return after the due date as described in Subsection (2)(a) is
42 subject to the penalty described in Subsection (2)(c)(ii); and

43 (II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is
44 subject to the penalty described in Subsection (3)(b)(ii).

45 (b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or
46 charge, the later of:

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

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

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

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

53 (I) this title;

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

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

56 (IV) Section 19-6-410.5;

57 (V) Section 19-6-714;

- 58 (VI) Section 19-6-805;
- 59 (VII) Section 32B-2-304;
- 60 (VIII) Section 34A-2-202;
- 61 (IX) Section 40-6-14;
- 62 (X) Section 69-2-5;
- 63 (XI) Section 69-2-5.5; or
- 64 (XII) Section 69-2-5.6; or
- 65 (B) another amount that by statute is subject to a penalty imposed under this section.
- 66 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
 - 67 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
 - 68 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
 - 69 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
 - 70 (D) Chapter 3, Tax Equivalent Property Act; or
 - 71 (E) Chapter 4, Privilege Tax.
- 72 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated
- 73 tax, fee, or charge.
- 74 (2) (a) The due date for filing a return is:
 - 75 (i) if the person filing the return is not allowed by law an extension of time for filing
 - 76 the return, the day on which the return is due as provided by law; or
 - 77 (ii) if the person filing the return is allowed by law an extension of time for filing the
 - 78 return, the earlier of:
 - 79 (A) the date the person files the return; or
 - 80 (B) the last day of that extension of time as allowed by law.
 - 81 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a
 - 82 return after the due date described in Subsection (2)(a).
 - 83 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:
 - 84 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated
 - 85 tax, fee, or charge:

- 86 (A) \$20; or
- 87 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
- 88 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,
- 89 fee, or charge, beginning on the activation date for the tax, fee, or charge:
 - 90 (A) \$20; or
 - 91 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is
 - 92 filed no later than five days after the due date described in Subsection (2)(a);
 - 93 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed
 - 94 more than five days after the due date but no later than 15 days after the due date described in
 - 95 Subsection (2)(a); or
 - 96 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is
 - 97 filed more than 15 days after the due date described in Subsection (2)(a).
- 98 (d) This Subsection (2) does not apply to:
 - 99 (i) an amended return; or
 - 100 (ii) a return with no tax due.
- 101 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:
 - 102 (i) the person files a return on or before the due date for filing a return described in
 - 103 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
 - 104 date;
 - 105 (ii) the person:
 - 106 (A) is subject to a penalty under Subsection (2)(b); and
 - 107 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
 - 108 due date for filing a return described in Subsection (2)(a);
 - 109 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and
 - 110 (B) the commission estimates an amount of tax due for that person in accordance with
 - 111 Subsection [59-1-1406\(2\)](#);
 - 112 (iv) the person:
 - 113 (A) is mailed a notice of deficiency; and

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

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

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

118 (v) (A) the commission:

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

121 (II) is considered to have denied a request for reconsideration under Subsection
122 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed
123 request for agency action; and

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

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

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

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

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

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

135 (A) \$20; or

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

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

139 (A) \$20; or

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

142 return described in Subsection (2)(a);

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

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

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

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

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

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

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

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

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

170 including the extension of time, the person fails to pay:

171 (i) for a person filing a corporate franchise or income tax return under Chapter 7,
172 Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

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

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

178 (6) If a person does not file a return within an extension of time allowed by Section
179 59-7-505 or 59-10-516, the person:

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

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

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

183 (A) \$20; or

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

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

187 (A) \$20; or

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

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

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

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

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

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

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

205 (i) The notice of proposed penalty shall:

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

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

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

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

211 or

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

213 (iii) A person against whom a penalty is proposed in accordance with this Subsection
214 (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with
215 the commission.

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

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

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

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

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

225 (i) a court of competent jurisdiction issues a final unappealable judgment or order

226 determining that:

227 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
228 or is a seller required to pay or collect and remit sales and use taxes under Subsection
229 59-12-107(2)(b); and

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

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

233 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
234 or is a seller required to pay or collect and remit sales and use taxes under Subsection
235 59-12-107(2)(b); and

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

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

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

242 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
243 or is a seller required to pay or collect and remit sales and use taxes under Subsection
244 59-12-107(2)(b); and

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

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

248 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
249 or is a seller required to pay or collect and remit sales and use taxes under Subsection
250 59-12-107(2)(b); and

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

253 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a

254 nonfrivolous argument for the extension, modification, or reversal of existing law or the
255 establishment of new law.

256 (8) The penalty for failure to file an information return, information report, or a
257 complete supporting schedule is \$50 for each information return, information report, or
258 supporting schedule up to a maximum of \$1,000.

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

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

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

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

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

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

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

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

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

277 (A) a return;

278 (B) an affidavit;

279 (C) a claim; or

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

281 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)

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

286 (b) The following acts apply to Subsection (11)(a)(i):
287 (i) preparing any portion of a document described in Subsection (11)(a)(i);
288 (ii) presenting any portion of a document described in Subsection (11)(a)(i);
289 (iii) procuring any portion of a document described in Subsection (11)(a)(i);
290 (iv) advising in the preparation or presentation of any portion of a document described
291 in Subsection (11)(a)(i);

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

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

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

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

299 (i) shall be imposed by the commission;

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

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

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

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

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

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

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

316 (A) be less than \$500; or

317 (B) exceed \$1,000.

318 (c) (i) [~~A person who, with intent to evade a tax, fee, or charge or requirement of this~~
319 ~~title or any lawful requirement of the commission,]~~ With respect to a tax, fee, or charge, a
320 person who knowingly and intentionally, and without a reasonable good faith basis, fails to
321 make, render, sign, or verify a return within the time required by law or to supply information
322 within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent
323 return or statement, or who supplies false or fraudulent information, is guilty of a third degree
324 felony.

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

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

328 (B) exceed \$5,000.

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

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

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

335 (B) exceed \$25,000.

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

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

338 documents:

339 (I) a return;

340 (II) an affidavit;

341 (III) a claim; or

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

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

344 Subsection (12)(e)(i)(A):

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

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

347 commission.

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

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

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

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

352 (D) advising in the preparation or presentation of any portion of a document described

353 in Subsection (12)(e)(i)(A);

354 (E) aiding in the preparation or presentation of any portion of a document described in

355 Subsection (12)(e)(i)(A);

356 (F) assisting in the preparation or presentation of any portion of a document described

357 in Subsection (12)(e)(i)(A); or

358 (G) counseling in the preparation or presentation of any portion of a document

359 described in Subsection (12)(e)(i)(A).

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

361 (A) regardless of whether the person for which the document described in Subsection

362 (12)(e)(i)(A) is prepared or presented:

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

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

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

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

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

369 (B) exceed \$25,000.

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

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

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

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

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

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

382 Section 2. Section 76-8-1101 is amended to read:

383 **76-8-1101. Criminal offenses and penalties relating to revenue and taxation --**
384 **Rulemaking authority -- Statute of limitations.**

385 (1) (a) As provided in Section 59-1-401, criminal offenses and penalties are as
386 provided in Subsections (1)(b) through (e).

387 (b) (i) Any person who is required by Title 59, Revenue and Taxation, or any laws the
388 State Tax Commission administers or regulates to register with or obtain a license or permit
389 from the State Tax Commission, who operates without having registered or secured a license or
390 permit, or who operates when the registration, license, or permit is expired or not current, is
391 guilty of a class B misdemeanor.

392 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(b)(i), the
393 penalty may not:

394 (A) be less than \$500; or

395 (B) exceed \$1,000.

396 (c) (i) [~~Any person who, with intent to evade any tax, fee, or charge as defined in~~
397 ~~Section 59-1-401 or requirement of Title 59, Revenue and Taxation, or any lawful requirement~~
398 ~~of the State Tax Commission,]~~ With respect to a tax, fee, or charge as defined in Section
399 59-1-401, any person who knowingly and intentionally, and without a reasonable good faith
400 basis, fails to make, render, sign, or verify any return within the time required by law or to
401 supply any information within the time required by law, or who makes, renders, signs, or
402 verifies any false or fraudulent return or statement, or who supplies any false or fraudulent
403 information, is guilty of a third degree felony.

404 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(c)(i), the penalty
405 may not:

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

407 (B) exceed \$5,000.

408 (d) (i) Any person who intentionally or willfully attempts to evade or defeat any tax,
409 fee, or charge as defined in Section 59-1-401 or the payment of a tax, fee, or charge as defined
410 in Section 59-1-401 is, in addition to other penalties provided by law, guilty of a second degree
411 felony.

412 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(d)(i), the penalty
413 may not:

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

415 (B) exceed \$25,000.

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

417 (A) described in Subsection (1)(e)(ii) with respect to one or more of the following
418 documents:

419 (I) a return;

420 (II) an affidavit;

421 (III) a claim; or

- 422 (IV) a document similar to Subsections (1)(e)(i)(A)(I) through (III); and
423 (B) subject to Subsection (1)(e)(iii), with knowledge that the document described in
424 Subsection (1)(e)(i)(A):
425 (I) is false or fraudulent as to any material matter; and
426 (II) could be used in connection with any material matter administered by the State Tax
427 Commission.
428 (ii) The following acts apply to Subsection (1)(e)(i):
429 (A) preparing any portion of a document described in Subsection (1)(e)(i)(A);
430 (B) presenting any portion of a document described in Subsection (1)(e)(i)(A);
431 (C) procuring any portion of a document described in Subsection (1)(e)(i)(A);
432 (D) advising in the preparation or presentation of any portion of a document described
433 in Subsection (1)(e)(i)(A);
434 (E) aiding in the preparation or presentation of any portion of a document described in
435 Subsection (1)(e)(i)(A);
436 (F) assisting in the preparation or presentation of any portion of a document described
437 in Subsection (1)(e)(i)(A); or
438 (G) counseling in the preparation or presentation of any portion of a document
439 described in Subsection (1)(e)(i)(A).
440 (iii) This Subsection (1)(e) applies:
441 (A) regardless of whether the person for which the document described in Subsection
442 (1)(e)(i)(A) is prepared or presented:
443 (I) knew of the falsity of the document described in Subsection (1)(e)(i)(A); or
444 (II) consented to the falsity of the document described in Subsection (1)(e)(i)(A); and
445 (B) in addition to any other penalty provided by law.
446 (iv) Notwithstanding Section [76-3-301](#), for purposes of this Subsection (1)(e), the
447 penalty may not:
448 (A) be less than \$1,500; or
449 (B) exceed \$25,000.

450 (v) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
451 State Tax Commission may make rules prescribing the documents that are similar to
452 Subsections (1)(e)(i)(A)(I) through (III).

453 (2) The statute of limitations for prosecution for a violation of this section is the later
454 of six years:

- 455 (a) from the date the tax should have been remitted; or
- 456 (b) after the day on which the person commits the criminal offense.