

1 **INCOME TAX REVISIONS**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: Daniel McCay

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7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to income taxes.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ addresses income tax penalties;
- 13 ▶ addresses filing requirements for income tax forms and returns;
- 14 ▶ addresses the time period for the State Tax Commission to issue an individual
- 15 income tax refund; and
- 16 ▶ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill provides a special effective date.

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **59-1-401**, as last amended by Laws of Utah 2014, Chapter 52

24 **59-10-406**, as last amended by Laws of Utah 2006, Chapter 10

25 ENACTS:

26 **59-10-529.1**, Utah Code Annotated 1953

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

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

30           **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**  
31 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**  
32 **interest.**

33           (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

56           (I) this title;

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

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

59 (IV) Section 19-6-410.5;

60 (V) Section 19-6-714;

61 (VI) Section 19-6-805;

62 (VII) Section 32B-2-304;

63 (VIII) Section 34A-2-202;

64 (IX) Section 40-6-14;

65 (X) Section 69-2-5;

66 (XI) Section 69-2-5.5; or

67 (XII) Section 69-2-5.6; or

68 (B) another amount that by statute is subject to a penalty imposed under this section.

69 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

70 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

71 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

72 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

73 (D) Chapter 3, Tax Equivalent Property Act; or

74 (E) Chapter 4, Privilege Tax.

75 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated  
76 tax, fee, or charge.

77 (2) (a) The due date for filing a return is:

78 (i) if the person filing the return is not allowed by law an extension of time for filing  
79 the return, the day on which the return is due as provided by law; or

80 (ii) if the person filing the return is allowed by law an extension of time for filing the  
81 return, the earlier of:

82 (A) the date the person files the return; or

83 (B) the last day of that extension of time as allowed by law.

84 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a  
85 return after the due date described in Subsection (2)(a).

86 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

87 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated  
88 tax, fee, or charge:

89 (A) \$20; or

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

91 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,  
92 fee, or charge, beginning on the activation date for the tax, fee, or charge:

93 (A) \$20; or

94 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is  
95 filed no later than five days after the due date described in Subsection (2)(a);

96 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed  
97 more than five days after the due date but no later than 15 days after the due date described in  
98 Subsection (2)(a); or

99 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is  
100 filed more than 15 days after the due date described in Subsection (2)(a).

101 (d) This Subsection (2) does not apply to:

102 (i) an amended return; or

103 (ii) a return with no tax due.

104 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

105 (i) the person files a return on or before the due date for filing a return described in  
106 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due  
107 date;

108 (ii) the person:

109 (A) is subject to a penalty under Subsection (2)(b); and

110 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the  
111 due date for filing a return described in Subsection (2)(a);

112 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and

113 (B) the commission estimates an amount of tax due for that person in accordance with

114 Subsection 59-1-1406(2);  
115 (iv) the person:  
116 (A) is mailed a notice of deficiency; and  
117 (B) within a 30-day period after the day on which the notice of deficiency described in  
118 Subsection (3)(a)(iv)(A) is mailed:  
119 (I) does not file a petition for redetermination or a request for agency action; and  
120 (II) fails to pay the tax, fee, or charge due on a return;  
121 (v) (A) the commission:  
122 (I) issues an order constituting final agency action resulting from a timely filed petition  
123 for redetermination or a timely filed request for agency action; or  
124 (II) is considered to have denied a request for reconsideration under Subsection  
125 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed  
126 request for agency action; and  
127 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period  
128 after the date the commission:  
129 (I) issues the order constituting final agency action described in Subsection  
130 (3)(a)(v)(A)(I); or  
131 (II) is considered to have denied the request for reconsideration described in  
132 Subsection (3)(a)(v)(A)(II); or  
133 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date  
134 of a final judicial decision resulting from a timely filed petition for judicial review.  
135 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:  
136 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with  
137 respect to an unactivated tax, fee, or charge:  
138 (A) \$20; or  
139 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or  
140 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with  
141 respect to an activated tax, fee, or charge, beginning on the activation date:

142 (A) \$20; or

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

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

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

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

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

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

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

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

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

168 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a  
169 person allowed by law an extension of time for filing a corporate franchise or income tax return

170 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return  
171 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in  
172 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not  
173 including the extension of time, the person fails to pay:

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

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

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

181 (6) If a person does not file a return within an extension of time allowed by Section  
182 59-7-505 or 59-10-516, the person:

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

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

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

186 (A) \$20; or

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

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

190 (A) \$20; or

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

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

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

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

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

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

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

208 (i) The notice of proposed penalty shall:

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

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

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

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

214 or

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

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

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

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

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

225 (II) in accordance with Section [59-1-1404](#).



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

228 (i) a court of competent jurisdiction issues a final unappealable judgment or order  
229 determining that:

230 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
231 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
232 59-12-107(2)(b); and

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

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

236 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
237 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
238 59-12-107(2)(b); and

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

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

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

245 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
246 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
247 59-12-107(2)(b); and

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

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

251 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
252 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
253 59-12-107(2)(b); and

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

256 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a  
257 nonfrivolous argument for the extension, modification, or reversal of existing law or the  
258 establishment of new law.

259 (8) ~~[The]~~ (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an  
260 information return, information report, or a complete supporting schedule is \$50 for each  
261 information return, information report, or supporting schedule up to a maximum of \$1,000.

262 (b) If an employer is subject to a penalty under Subsection (13), the employer may not  
263 be subject to a penalty under Subsection (8)(a).

264 (c) If an employer is subject to a penalty under this Subsection (8) for failure to file a  
265 return in accordance with Subsection 59-10-406(3) on or before the due date described in  
266 Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this  
267 Subsection (8) unless the return is filed more than 14 days after the due date described in  
268 Subsection 59-10-406(3)(b)(ii).

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

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

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

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

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

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

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

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

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

287 (A) a return;

288 (B) an affidavit;

289 (C) a claim; or

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

291 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)  
292 will be used in connection with any material matter administered by the commission; and

293 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection  
294 with any material matter administered by the commission, would result in an understatement of  
295 another person's liability for a tax, fee, or charge.

296 (b) The following acts apply to Subsection (11)(a)(i):

297 (i) preparing any portion of a document described in Subsection (11)(a)(i);

298 (ii) presenting any portion of a document described in Subsection (11)(a)(i);

299 (iii) procuring any portion of a document described in Subsection (11)(a)(i);

300 (iv) advising in the preparation or presentation of any portion of a document described  
301 in Subsection (11)(a)(i);

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

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

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

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

309 (i) shall be imposed by the commission;

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

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

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

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

318 (12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as  
319 provided in Subsections (12)(b) through (e).

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

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

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

327 (B) exceed \$1,000.

328 (c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally,  
329 and without a reasonable good faith basis, fails to make, render, sign, or verify a return within  
330 the time required by law or to supply information within the time required by law, or who  
331 makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false  
332 or fraudulent information, is guilty of a third degree felony.

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

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

336 (B) exceed \$5,000.

337 (d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or

338 charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law,  
339 guilty of a second degree felony.

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

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

343 (B) exceed \$25,000.

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

345 (A) described in Subsection (12)(e)(ii) with respect to one or more of the following  
346 documents:

347 (I) a return;

348 (II) an affidavit;

349 (III) a claim; or

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

351 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in  
352 Subsection (12)(e)(i)(A):

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

354 (II) could be used in connection with any material matter administered by the  
355 commission.

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

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

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

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

360 (D) advising in the preparation or presentation of any portion of a document described  
361 in Subsection (12)(e)(i)(A);

362 (E) aiding in the preparation or presentation of any portion of a document described in  
363 Subsection (12)(e)(i)(A);

364 (F) assisting in the preparation or presentation of any portion of a document described  
365 in Subsection (12)(e)(i)(A); or

366 (G) counseling in the preparation or presentation of any portion of a document  
367 described in Subsection (12)(e)(i)(A).

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

369 (A) regardless of whether the person for which the document described in Subsection  
370 (12)(e)(i)(A) is prepared or presented:

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

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

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

374 (iv) Notwithstanding Section [76-3-301](#), for purposes of this Subsection (12)(e), the  
375 penalty may not:

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

377 (B) exceed \$25,000.

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

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

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

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

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

387 (13) (a) Subject to Subsection(13)(b), an employer that is required to file a form with  
388 the commission in accordance with Subsection [59-10-406\(8\)](#) is subject to a penalty described  
389 in Subsection (13)(b) if the employer:

390 (i) fails to file the form with the commission in an electronic format approved by the  
391 commission as required by Subsection [59-10-406\(8\)](#);

392 (ii) fails to file the form on or before the due date provided in Subsection [59-10-406\(8\)](#);

393 (iii) fails to provide accurate information on the form; or

394 (iv) fails to provide all of the information required by the Internal Revenue Service to  
395 be contained on the form.

396 (b) For purposes of Subsection (13)(a), the penalty is:

397 (i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the  
398 form in accordance with Subsection 59-10-406(8), more than 14 days after the due date  
399 provided in Subsection 59-10-406(8) but no later than 30 days after the due date provided in  
400 Subsection 59-10-406(8);

401 (ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the  
402 form in accordance with Subsection 59-10-406(8), more than 30 days after the due date  
403 provided in Subsection 59-10-406(8) but on or before June 1; or

404 (iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:

405 (A) files the form in accordance with Subsection 59-10-406(8) after June 1; or

406 (B) fails to file the form.

407 ~~[(13)]~~ (14) Upon making a record of its actions, and upon reasonable cause shown, the  
408 commission may waive, reduce, or compromise any of the penalties or interest imposed under  
409 this part.

410 Section 2. Section 59-10-406 is amended to read:

411 **59-10-406. Collection and payment of tax -- Forms filed electronically.**

412 (1) (a) Each employer shall, on or before the last day of April, July, October, and  
413 January, pay to the commission the amount required to be deducted and withheld from wages  
414 paid to any employee during the preceding calendar quarter under this part.

415 (b) The commission may change the time or period for making reports and payments  
416 if:

417 (i) in its opinion, the tax is in jeopardy; or

418 (ii) a different time or period will facilitate the collection and payment of the tax by the  
419 employer.

420 (2) Each employer shall file a return, in a form the commission prescribes, with each  
421 payment of the amount deducted and withheld under this part showing:

- 422 (a) the total amount of wages paid to his employees;
- 423 (b) the amount of federal income tax deducted and withheld;
- 424 (c) the amount of tax under this part deducted and withheld; and
- 425 (d) any other information the commission may require.
- 426 (3) (a) Each employer shall file an annual return, in a form the commission prescribes,
- 427 summarizing:
- 428 (i) the total compensation paid;
- 429 (ii) the federal income tax deducted and withheld; and
- 430 (iii) the state tax deducted and withheld for each employee during the calendar year.
- 431 (b) ~~[(i) Except as provided in Subsection (3)(b)(ii), the]~~ The return required by
- 432 Subsection (3)(a) shall be filed with the commission;
- 433 (i) in an electronic format approved by the commission; and
- 434 (ii) on or before [February 28] January 31 of the year following that for which the
- 435 report is made.
- 436 ~~[(ii) An annual return described in Subsection (3)(a) that is filed electronically shall be~~
- 437 ~~filed with the commission on or before the date established in Section 6071(b), Internal~~
- 438 ~~Revenue Code, for filing returns.]~~
- 439 (4) (a) Each employer shall also, in accordance with rules prescribed by the
- 440 commission, provide each employee from whom state income tax has been withheld with a
- 441 statement of the amounts of total compensation paid and the amounts deducted and withheld
- 442 for that employee during the preceding calendar year in accordance with this part.
- 443 (b) The statement shall be made available to each employee described in Subsection
- 444 (4)(a) on or before January 31 of the year following that for which the report is made.
- 445 (5) (a) The employer is liable to the commission for the payment of the tax required to
- 446 be deducted and withheld under this part.
- 447 (b) If an employer pays the tax required to be deducted and withheld under this part:
- 448 (i) an employee of the employer is not liable for the amount of any payment described
- 449 in Subsection (5)(a); and



450 (ii) the employer is not liable to any person or to any employee for the amount of any  
451 such payment described in Subsection (5)(a).

452 (c) For the purpose of making penal provisions of this title applicable, any amount  
453 deducted or required to be deducted and remitted to the commission under this part is  
454 considered to be the tax of the employer and with respect to such amounts the employer is  
455 considered to be the taxpayer.

456 (6) (a) Each employer that deducts and withholds any amount under this part shall hold  
457 the amount in trust for the state for the payment of the amount to the commission in the manner  
458 and at the time provided for in this part.

459 (b) So long as any delinquency continues, the state shall have a lien to secure the  
460 payment of any amounts withheld, and not remitted as provided under this section, upon all of  
461 the assets of the employer and all property owned or used by the employer in the conduct of the  
462 employer's business, including stock-in-trade, business fixtures, and equipment.

463 (c) The lien described in Subsection (6)(b) shall be prior to any lien of any kind,  
464 including existing liens for taxes.

465 (7) To the extent consistent with this section, the commission may use all the  
466 provisions of this chapter relating to records, penalties, interest, deficiencies, redetermination  
467 of deficiencies, overpayments, refunds, assessments, and venue to enforce this section.

468 ~~[(8) For all taxable years beginning on or after January 1, 2001, an employer that is  
469 required to file a federal Form W-2 in an electronic format with the Federal Department of the  
470 Treasury Internal Revenue Service shall file each Form W-2 that is required to be filed with the  
471 commission in an electronic format approved by the commission.]~~

472 (8) (a) Subject to Subsections (8)(b) and (c), the commission shall require an employer  
473 that issues the following forms for a taxable year to file the forms with the commission in an  
474 electronic format approved by the commission:

475 (i) a federal Form W-2;

476 (ii) a federal Form 1099 filed for purposes of withholding under Section [59-10-404](#); or

477 (iii) a federal form substantially similar to a form described in Subsection (8)(a)(i) or

478 (ii) if designated by the commission in accordance with Subsection (8)(d).

479 (b) An employer that is required to file a form with the commission in accordance with  
480 Subsection (8)(a) shall file the form on or before January 31.

481 (c) An employer that is required to file a form with the commission in accordance with  
482 Subsection (8)(a) shall provide:

483 (i) accurate information on the form; and

484 (ii) all of the information required by the Internal Revenue Service to be contained on  
485 the form.

486 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
487 purposes of Subsection (8)(a), the commission may designate a federal form as being  
488 substantially similar to a form described in Subsection (8)(a)(i) or (ii) if:

489 (i) for purposes of federal individual income taxes a different federal form contains  
490 substantially similar information to a form described in Subsection (8)(a)(i) or (ii); or

491 (ii) the Internal Revenue Service replaces a form described in Subsection (8)(a)(i) or  
492 (ii) with a different federal form.

493 Section 3. Section **59-10-529.1** is enacted to read:

494 **59-10-529.1. Time period for commission to issue a refund.**

495 (1) Except as provided in Subsection (2), the commission may not issue a refund  
496 before March 1.

497 (2) The commission may issue a refund before March 1 if, before March 1, the  
498 commission determines that:

499 (a) an employer has filed the one or more forms in accordance with Subsection  
500 [59-10-406](#)(8) the employer is required to file with respect to an individual; and

501 (b) the individual has filed a return in accordance with this chapter.

502 Section 4. **Effective date.**

503 This bill takes effect on January 1, 2016.