

1                   **MENTAL HEALTH PRACTITIONER AMENDMENTS**

2                                   2016 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Steve Eliason**

5                                   Senate Sponsor: Curtis S. Bramble

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7   **LONG TITLE**

8   **General Description:**

9           This bill creates a state income tax credit for psychiatrists and psychiatric mental health  
10 nurse practitioners under certain circumstances.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ requires the Division of Occupational and Professional Licensing within the  
14 Department of Commerce to issue a tax credit certificate to a psychiatrist or  
15 psychiatric mental health nurse practitioner who submits an application to the  
16 division and provides certain information to the division;
- 17           ▶ defines terms;
- 18           ▶ creates a nonrefundable state income tax credit for a psychiatrist or a psychiatric  
19 mental health nurse practitioner who begins practicing in the state on or after July 1,  
20 2016;
- 21           ▶ creates a refundable state income tax credit for a psychiatrist or a psychiatric mental  
22 health nurse practitioner who provides mental health services to an underserved  
23 population in the state; and
- 24           ▶ limits the number of years in which the income tax credits may be claimed.

25 **Money Appropriated in this Bill:**

26           None

27 **Other Special Clauses:**



28 This bill provides retrospective operation.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **59-10-1002.1**, as last amended by Laws of Utah 2015, Chapters 30 and 41

32 **59-10-1002.2**, as last amended by Laws of Utah 2011, Chapter 302

33 ENACTS:

34 **58-1-111**, Utah Code Annotated 1953

35 **59-10-1036**, Utah Code Annotated 1953

36 **59-10-1111**, Utah Code Annotated 1953



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

39 Section 1. Section **58-1-111** is enacted to read:

40 **58-1-111. Tax credit certificate -- Psychiatrists and psychiatric mental health**  
41 **nurse practitioners -- Underserved populations.**

42 (1) As used in this section:

43 (a) "Average of 30 hours or more per week" means that the quotient calculated when  
44 dividing the claimant's total hours providing licensed services in the state during the taxable  
45 year by the number of weeks in which the claimant is licensed in the state during the taxable  
46 year is greater than or equal to 30.

47 (b) "Licensed services" means the provision of behavioral health treatment within the  
48 scope of practice of a psychiatrist or a psychiatric mental health nurse practitioner.

49 (c) "Psychiatric mental health nurse practitioner" means an individual who:

50 (i) is licensed under Chapter 31b, Nurse Practice Act, for the practice of advanced  
51 practice registered nursing as that term is defined in Section **58-31b-102**; and

52 (ii) holds a certification recognized by the American Nurses Credentialing Center of  
53 the American Association of Colleges of Nursing as a psychiatric mental health nurse  
54 practitioner.

55 (d) "Psychiatrist" means an individual who:

56 (i) is licensed as a physician under:

57 (A) Chapter 67, Utah Medical Practice Act;

58 (B) Chapter 67b, Interstate Medical Licensure Compact; or

59 (C) Chapter 68, Utah Osteopathic Medical Practice Act; and  
60 (ii) is board eligible for a psychiatry specialization recognized by the American Board  
61 of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic  
62 Specialists.

63 (e) "Underserved population" means:  
64 (i) a veteran;  
65 (ii) an individual located in a county of the third, fourth, fifth, or sixth class, as  
66 designated in Section [17-50-501](#);  
67 (iii) a Native American Indian; or  
68 (iv) an individual who is less than 19 years of age.

69 (2) (a) An individual who seeks to obtain a state income tax credit under Sections  
70 [59-10-1036](#) and [59-10-1111](#) shall file an application with the division with respect to each  
71 taxable year in which the individual seeks the state income tax credit.

72 (b) An individual may qualify for a tax certificate under this section for no more than  
73 10 taxable years under:

74 (i) Section [59-10-1036](#); and  
75 (ii) Section [59-10-1111](#).

76 (3) The application shall require the individual to provide the following to the division:  
77 (a) the date on which the individual obtained a license and the specialization described  
78 in Subsection (1)(c)(ii) or (d)(ii);  
79 (b) the individual's social security number;  
80 (c) an attestation to the division:  
81 (i) that the individual averaged 30 or more hours per week during the taxable year  
82 providing licensed services; and  
83 (ii) if applicable:  
84 (A) that the individual devoted 25% or more of the individual's total hours of licensed  
85 services in the taxable year to an underserved population; and  
86 (B) the type of underserved population for which the individual provided services  
87 during the taxable year; and  
88 (d) other information as required by the division by administrative rule adopted in  
89 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

90 (4) (a) The division shall issue a tax certification in accordance with Subsections (4)(b)  
91 through (d) to an individual who submits the information and attestation under Subsection (3).

92 (b) The tax certification may state that an individual is entitled to:

93 (i) a tax credit under Section 59-10-1036;

94 (ii) a tax credit under Section 59-10-1111; or

95 (iii) a tax credit under Sections 59-10-1036 and 59-10-1111.

96 (c) (i) The tax certificate issued by the division shall state that the individual qualifies  
97 for a tax credit under Section 59-10-1036 if the individual:

98 (A) attested to practicing an average of 30 or more hours per week during the taxable  
99 year; and

100 (B) was licensed on or after July 1, 2016, or received a specialty certification under  
101 Subsection (1)(c) or (d) on or after July 1, 2016.

102 (ii) The tax certificate issued by the division shall state that the individual qualifies for  
103 a refundable tax credit under Section 59-10-1111, if the individual attests to the division that  
104 the individual:

105 (A) practiced an average of 30 or more hours per week during the taxable year; and

106 (B) devoted 25% or more of the individual's licensed services in the taxable year to an  
107 underserved population.

108 (d) The division may issue a tax refund certificate to an individual under Sections  
109 59-10-1036 and 59-10-1111 for no more than 10 taxable years per income tax refund.

110 (5) The division shall provide a copy of a tax credit certificate issued under this section  
111 to the individual and the State Tax Commission.

112 Section 2. Section 59-10-1002.1 is amended to read:

113 **59-10-1002.1. Removal of tax credit from tax return and prohibition on claiming**  
114 **or carrying forward a tax credit -- Conditions for removal and prohibition on claiming or**  
115 **carrying forward a tax credit -- Commission publishing requirements.**

116 (1) As used in this section, "tax return" means a tax return filed in accordance with this  
117 chapter.

118 (2) Except as provided in Subsection (4), beginning two taxable years after the  
119 requirements of Subsection (3) are met:

120 (a) the commission shall remove a tax credit allowed under this part from each tax

121 return on which the tax credit appears; and

122 (b) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax  
123 credit.

124 (3) Except as provided in Subsection (4), the commission shall remove a tax credit  
125 allowed under this part from a tax return and a claimant, estate, or trust filing a tax return may  
126 not claim or carry forward the tax credit as provided in Subsection (2) if:

127 (a) the total amount of the tax credit claimed or carried forward by all claimants,  
128 estates, or trusts filing tax returns is less than \$10,000 per year for three consecutive taxable  
129 years beginning on or after January 1, 2002; and

130 (b) less than 10 claimants, estates, and trusts per year for the three consecutive taxable  
131 years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax  
132 credit.

133 (4) This section does not apply to a tax credit under:

134 (a) Section 59-10-1027; or

135 (b) Section 59-10-1036.

136 (5) The commission shall, on or before the November interim meeting of the year after  
137 the taxable year in which the requirements of Subsection (3) are met, report to the Revenue and  
138 Taxation Interim Committee that in accordance with this section:

139 (a) the commission is required to remove a tax credit from each tax return on which the  
140 tax credit appears; and

141 (b) a claimant, estate, or trust filing a tax return may not claim or carry forward the tax  
142 credit.

143 (6) (a) Within a 30-day period after making the report required by Subsection (5), the  
144 commission shall publish a list in accordance with Subsection (6)(b) stating each tax credit that  
145 the commission will remove from a return on which the tax credit appears.

146 (b) The list shall:

147 (i) be published on:

148 (A) the commission's website; and

149 (B) the public legal notice website in accordance with Section [45-1-101](#);

150 (ii) include a statement that:

151 (A) the commission is required to remove the tax credit from each return on which the

152 tax credit appears; and

153 (B) the tax credit may not be claimed or carried forward on a return;

154 (iii) state the taxable year for which the removal described in Subsection (6)(a) takes  
155 effect; and

156 (iv) remain available for viewing and searching until the commission publishes a new  
157 list in accordance with this Subsection (6).

158 Section 3. Section 59-10-1002.2 is amended to read:

159 **59-10-1002.2. Apportionment of tax credits.**

160 (1) A nonresident individual or a part-year resident individual that claims a tax credit  
161 in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1021, 59-10-1022,  
162 59-10-1023, 59-10-1024, [or] 59-10-1028, or 59-10-1036 may only claim an apportioned  
163 amount of the tax credit equal to:

164 (a) for a nonresident individual, the product of:

165 (i) the state income tax percentage for the nonresident individual; and

166 (ii) the amount of the tax credit that the nonresident individual would have been  
167 allowed to claim but for the apportionment requirements of this section; or

168 (b) for a part-year resident individual, the product of:

169 (i) the state income tax percentage for the part-year resident individual; and

170 (ii) the amount of the tax credit that the part-year resident individual would have been  
171 allowed to claim but for the apportionment requirements of this section.

172 (2) A nonresident estate or trust that claims a tax credit in accordance with Section  
173 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, or 59-10-1028 may only claim an  
174 apportioned amount of the tax credit equal to the product of:

175 (a) the state income tax percentage for the nonresident estate or trust; and

176 (b) the amount of the tax credit that the nonresident estate or trust would have been  
177 allowed to claim but for the apportionment requirements of this section.

178 Section 4. Section 59-10-1036 is enacted to read:

179 **59-10-1036. Definitions -- Nonrefundable tax credit for psychiatrists and**  
180 **psychiatric mental health nurse practitioners.**

181 (1) As used in this section:

182 (a) "Psychiatric mental health nurse practitioner" means the same as that term is

183 defined in Section 58-1-111.

184 (b) "Psychiatrist" means the same as that term is defined in Section 58-1-111.

185 (c) "Tax credit certificate" means a certificate issued by the Division of Occupational  
186 and Professional Licensing under Section 58-1-111 certifying that the claimant is entitled to a  
187 tax credit under this section.

188 (2) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner  
189 and who submits a tax credit certificate issued by the Division of Occupational and  
190 Professional licensing under Section 58-1-111, may claim a nonrefundable tax credit:

191 (a) as provided in this section;

192 (b) against taxes otherwise due under this chapter; and

193 (c) in the amount of \$15,000.

194 (3) A claimant may claim a tax credit under this section for no more than 10 taxable  
195 years.

196 Section 5. Section 59-10-1111 is enacted to read:

197 **59-10-1111. Refundable tax credit for psychiatrists and psychiatric mental health**  
198 **nurse practitioners who work with underserved populations.**

199 (1) As used in this section:

200 (a) "Psychiatric mental health nurse practitioner" means the same as that term is  
201 defined in Section 58-1-111.

202 (b) "Psychiatrist" means the same as that term is defined in Section 58-1-111.

203 (c) "Tax credit certificate" means a certificate issued by the Division of Occupational  
204 and Professional Licensing under Section 58-1-111 certifying that the claimant is entitled to a  
205 tax credit under this section.

206 (2) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner  
207 and who submits a tax credit certificate issued by the Division of Occupational and  
208 Professional Licensing under Section 58-1-111, may claim a refundable tax credit:

209 (a) as provided in this section; and

210 (b) in the amount of \$7,500.

211 (3) A claimant may claim a tax credit under this section for no more than 10 taxable  
212 years.

213 (4) (a) In accordance with any rules prescribed by the commission under Subsection

214 (4)(b), the commission shall make a refund to a claimant who claims a tax credit under this  
215 section if the amount of the tax credit exceeds the claimant's tax liability for the taxable year.

216 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
217 commission may make rules providing procedures for making a refund to a claimant as  
218 required by Subsection (4)(a).

219 **Section 6. Retrospective operation.**

220 This bill has retrospective operation for a taxable year beginning on or after January 1,  
221 2016.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**