

**TAX E-FILING AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the format that is required for filing certain income tax withholding statements.

**Highlighted Provisions:**

This bill:

▸ requires an employer to file a quarterly withholding return in an electronic format;

and

▸ requires an employer to file a monthly withholding prepayment form in an electronic format.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**59-10-406**, as last amended by Laws of Utah 2015, Chapter 369

**59-10-407**, as last amended by Laws of Utah 2009, Chapter 33

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

Section 1. Section **59-10-406** is amended to read:



28           **59-10-406. Collection and payment of tax -- Forms filed electronically.**

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

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

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

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

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

39           ~~[(a)]~~ (i) the total amount of wages paid to his employees;

40           ~~[(b)]~~ (ii) the amount of federal income tax deducted and withheld;

41           ~~[(c)]~~ (iii) the amount of tax under this part deducted and withheld; and

42           ~~[(d)]~~ (iv) any other information the commission may require.

43           (b) The employer shall file the return described in Subsection (2)(a) in an electronic  
44 format approved by the commission.

45           (3) (a) Each employer shall file an annual return, in a form the commission prescribes,  
46 summarizing:

47           (i) the total compensation paid;

48           (ii) the federal income tax deducted and withheld; and

49           (iii) the state tax deducted and withheld for each employee during the calendar year.

50           (b) The return required by Subsection (3)(a) shall be filed with the commission:

51           (i) in an electronic format approved by the commission; and

52           (ii) on or before January 31 of the year following that for which the report is made.

53           (4) (a) Each employer shall also, in accordance with rules prescribed by the  
54 commission, provide each employee from whom state income tax has been withheld with a  
55 statement of the amounts of total compensation paid and the amounts deducted and withheld  
56 for that employee during the preceding calendar year in accordance with this part.

57           (b) The statement shall be made available to each employee described in Subsection

58 (4)(a) on or before January 31 of the year following that for which the report is made.

59 (5) (a) The employer is liable to the commission for the payment of the tax required to  
60 be deducted and withheld under this part.

61 (b) If an employer pays the tax required to be deducted and withheld under this part:

62 (i) an employee of the employer is not liable for the amount of any payment described  
63 in Subsection (5)(a); and

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

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

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

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

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

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

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

85 (i) a federal Form W-2;

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

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

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

89 (b) An employer that is required to file a form with the commission in accordance with

90 Subsection (8)(a) shall file the form on or before January 31.

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

93 (i) accurate information on the form; and

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

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

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

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

103 Section 2. Section **59-10-407** is amended to read:

104 **59-10-407. Withholding tax prepayments.**

105 (1) This section does not apply to an employer filing a withholding tax return for a  
106 period under this part other than a quarterly period.

107 (2) (a) Any employer whose withholding tax liability under Section **59-10-402** is  
108 estimated to average an amount designated by the commission by rule shall make a monthly  
109 prepayment of the amount required to be paid by Section **59-10-406** for each monthly period of  
110 each quarterly period.

111 (b) An employer that makes a monthly prepayment described in this Subsection (2)  
112 shall make the monthly prepayment as provided in this section until the commission notifies  
113 the employer in writing.

114 (c) (i) An employer shall file a form with a monthly prepayment.

115 (ii) The commission shall prescribe and furnish the form described in Subsection  
116 (2)(c)(i).

117 (iii) An employer shall make a monthly prepayment and file the form described in  
118 Subsection (2)(c)(i) on or before the last day of the month after the end of each monthly period  
119 of each quarterly period.

120 (iv) An employer shall file the form described in Subsection (2)(c)(i) in an electronic

121 format approved by the commission.

122 (3) In determining whether an employer's estimated withholding tax liability will  
123 average an amount that requires a monthly prepayment, the commission may consider:

124 (a) a return filed pursuant to Section 59-10-406; or

125 (b) information in the commission's possession or that may come into the commission's  
126 possession.

127 (4) The penalties and interest for failure to make a monthly prepayment and file the  
128 form described in Subsection (2)(c)(i) by the due date described in Subsection (2)(c)(iii) are the  
129 same as the penalties and interest under Sections 59-1-401 and 59-1-402 relating to payment of  
130 a tax, fee, or charge or filing a return.

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