

Senator Curtis S. Bramble proposes the following substitute bill:

TAX E-FILING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Daniel McCay

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ requires a producer to file a quarterly mineral production withholding return in an electronic format; and
- ▶ requires an employer to file a quarterly withholding return in an electronic format.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-6-103, as last amended by Laws of Utah 2008, Chapter 255

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

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



26 Section 1. Section **59-6-103** is amended to read:

27 **59-6-103. Returns and payments required of producers.**

28 (1) (a) Subject to Subsection (1)(b), a producer required to deduct and withhold an
29 amount under this chapter shall file a withholding return with the commission:

30 (i) for the amounts required to be deducted and withheld under this chapter during the
31 preceding calendar quarter; and

32 (ii) ~~on a form~~ in an electronic format prescribed by the commission.

33 (b) A withholding return described in Subsection (1)(a) is due on or before the last day
34 of April, July, October, and January.

35 (c) A withholding return described in Subsection (1)(a) shall contain:

36 (i) the name and address of each person receiving a payment subject to the deduction
37 and withholding requirements of this chapter for the calendar quarter for which the withholding
38 return is filed;

39 (ii) for each person described in Subsection (1)(c)(i), the amount of payment the person
40 would have received from the production of minerals~~[-(A)]~~ by the producer had the deduction
41 and withholding required by this chapter not been made~~[-and (B)]~~ for the calendar quarter for
42 which the withholding return is filed;

43 (iii) for each person described in Subsection (1)(c)(i), the amount of deduction and
44 withholding under this chapter for the calendar quarter for which the withholding return is
45 filed;

46 (iv) the name or description of the property from which the production of minerals
47 occurs that results in a payment subject to deduction and withholding under this chapter; and

48 (v) for each person described in Subsection (1)(c)(i), the interest of the person in the
49 production of minerals that results in a payment subject to deduction and withholding under
50 this chapter.

51 (2) (a) If a producer receives an exemption certificate filed in accordance with Section
52 [59-6-102.1](#) from a business entity, the producer shall file a withholding return with the
53 commission:

54 (i) on a form prescribed by the commission; and

55 (ii) on or before the January 31 following the last day of the taxable year for which the
56 producer receives the exemption certificate from the business entity.

- 57 (b) The withholding return required by Subsection (2)(a) shall contain:
- 58 (i) the name and address of the business entity that files the exemption certificate in
59 accordance with Section 59-6-102.1;
- 60 (ii) the amount of the payment made by the producer to the business entity that would
61 have been subject to deduction and withholding under this chapter had the business entity not
62 filed the exemption certificate in accordance with Section 59-6-102.1;
- 63 (iii) the name or description of the property from which the production of minerals
64 occurs that would have resulted in a payment subject to deduction and withholding under this
65 chapter had the business entity not filed the exemption certificate in accordance with Section
66 59-6-102.1; and
- 67 (iv) the interest of the business entity in the production of minerals that would have
68 resulted in a payment subject to deduction and withholding under this chapter had the business
69 entity not filed the exemption certificate in accordance with Section 59-6-102.1.

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

71 **59-10-406. Collection and payment of tax -- Forms filed electronically.**

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

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

- 77 (i) in its opinion, the tax is in jeopardy; or
- 78 (ii) a different time or period will facilitate the collection and payment of the tax by the
79 employer.

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

- 82 ~~[(a)]~~ (i) the total amount of wages paid to his employees;
- 83 ~~[(b)]~~ (ii) the amount of federal income tax deducted and withheld;
- 84 ~~[(c)]~~ (iii) the amount of tax under this part deducted and withheld; and
- 85 ~~[(d)]~~ (iv) any other information the commission may require.

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

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

- 90 (i) the total compensation paid;
- 91 (ii) the federal income tax deducted and withheld; and
- 92 (iii) the state tax deducted and withheld for each employee during the calendar year.

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

- 94 (i) in an electronic format approved by the commission; and
- 95 (ii) on or before January 31 of the year following that for which the report is made.

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

100 (b) The statement shall be made available to each employee described in Subsection
101 (4)(a) on or before January 31 of the year following that for which the report is made.

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

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

- 105 (i) an employee of the employer is not liable for the amount of any payment described
106 in Subsection (5)(a); and
- 107 (ii) the employer is not liable to any person or to any employee for the amount of any
108 such payment described in Subsection (5)(a).

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

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

116 (b) So long as any delinquency continues, the state shall have a lien to secure the
117 payment of any amounts withheld, and not remitted as provided under this section, upon all of
118 the assets of the employer and all property owned or used by the employer in the conduct of the

119 employer's business, including stock-in-trade, business fixtures, and equipment.

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

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

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

128 (i) a federal Form W-2;

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

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

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

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

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

136 (i) accurate information on the form; and

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

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

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

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

146 **Section 3. Effective date.**

147 This bill takes effect on January 1, 2018.