

Financial Institution Tax Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill modifies the formula for apportioning business income of financial institutions.

Highlighted Provisions:

This bill:

- defines terms;
- grants rulemaking authority to the State Tax Commission to establish the sales to include in the sales factor fraction for financial institutions; and
- provides that sales from Utah investment and trading activities of financial institutions are not sourced to Utah.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-7-317, as last amended by Laws of Utah 2008, Chapter 283

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

Section 1. Section **59-7-317** is amended to read:

59-7-317 . Sales factor for apportionment of business income -- Transportation revenue of an airline -- Sales of a financial institution.

(1) As used in this section:

(a)(i) "Finance lease" means a lease transaction that is the functional equivalent of an extension of credit and that transfers substantially all of the benefits and risks incident to the ownership of property.

(ii) "Finance lease" includes a direct financing lease or leverage lease that meets the criteria of Financial Accounting Standards Board Statement No. 13, Accounting for Leases, or any other lease that is accounted for as a financing lease by a lessor under generally accepted accounting principles.

(b) "Financial institution" means:

(i) a corporation or other business entity registered under state law as a bank holding company, under the Federal Bank Holding Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended;

(ii) a national bank organized and existing as a national bank association in accordance with the National Bank Act, 12 U.S.C. Secs. 21 et seq.;

(iii) a savings association or federal savings bank as defined in 12 U.S.C. Secs. 1813(b)(1) and (2);

(iv) a bank, industrial loan corporation, or thrift institution incorporated or organized under the laws of any state;

(v) a corporation organized under the provisions of 12 U.S.C. Secs. 611 through 631;

(vi) an agency or a branch of a foreign bank as defined in 12 U.S.C. Sec. 3101;

(vii) a production credit association organized under the Federal Farm Credit Act of 1933, if all of the production credit association's stock held by the Federal Production Credit Corporation has been retired;

(viii) a corporation, other than an insurance company taxable under Chapter 9, Taxation of Admitted Insurers, for which voting stock is more than 50% owned, directly or indirectly, by any person described in Subsections (1)(b)(i) through (1)(b)(vii);

(ix) a corporation or other business entity that derives from finance leases more than 50% of the corporation's or the business entity's total gross income for financial accounting purposes:

(A) using the average of the gross income in the current tax year and immediately preceding two tax years; and

(B) disregarding gross income from incidental or occasional transactions; or

(x) another person, other than an insurance company, a credit union exempt from the corporation franchise tax under Section 59-7-102, a real estate broker, or a securities dealer, that derives more than 50% of the person's gross income, excluding non-recurring, extraordinary items, from activities that a person

described in Subsections (1)(b)(ii) through (vii) and (1)(b)(ix) is authorized to transact unless the commission excludes the person upon receipt of proof, by clear and convincing evidence, that the income-producing activity of the person is not in substantial competition with the persons described in Subsections (1)(b)(ii) through (vii) and (1)(b)(ix).

(c)(i) "Sales from investment activities and assets and trading activities and assets"

means receipts from interest, dividends, a net gain, but not less than zero, or other income from an investment security, a trading account asset, federal funds, a security purchased and sold under an agreement to resell or repurchase, an option, a future contract, a forward contract, equities, a foreign currency transaction, or a notional principal contract, such as swaps.

(ii) "Sales from investment activities and assets and trading activities and assets"

includes:

(A) the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements; and

(B) the amount by which interest, dividends, gains, and other income from foreign currency transactions and trading assets and activities, including assets and activities in the matched book and arbitrage book, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from trading assets and activities.

(iii) "Sales from investment activities and assets and trading activities and assets"

does not include:

(A) receipts from the lease of real property;

(B) receipts from the lease of tangible personal property;

(C) interest from a loan secured by real property;

(D) interest from a loan not secured by real property;

(E) a net gain from the sale of a loan;

(F) receipts from a credit card receivable;

(G) a net gain from the sale of a credit card receivable;

(H) a credit card issuer's reimbursement fees;

(I) receipts from a merchant discount;

(J) a loan servicing fee;

(K) receipts from a service; or

(L) other receipts not addressed in Subsection (1)(c)(i) or Subsections (1)(c)(iii)(A) through (K).

(2) Except as provided in ~~[Subsection (2)]~~ Subsections (3) and (4), the sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

~~[(2)]~~ (3) The total sales of an airline in this state during the tax period attributable to transportation ~~[revenues]~~ revenue in this state during the tax period for purposes of the numerator of the fraction described in Subsection (1) shall be calculated by determining the product of:

- (a) the total transportation ~~[revenues]~~ revenue during the tax period of the airline; and
- (b) a fraction, the numerator of which is the Utah revenue ton miles and the denominator of which is the airline revenue ton miles.

(4)(a) Except as provided in Subsection (4)(b), the commission shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish the sales to be included in the sales factor fraction of a financial institution.

(b) In calculating the sales factor of a financial institution:

- (i) the numerator may not include sales from investment activities and assets and trading activities and assets; and
- (ii) the denominator shall include sales from investment activities and assets and trading activities and assets.

Section 2. **Effective Date.**

This bill takes effect for a taxable year beginning on or after January 1, 2026.