

Michael K. McKell proposes the following substitute bill:

Financial Institution Tax Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor:

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

30 criteria of Financial Accounting Standards Board Statement No. 13, Accounting
31 for Leases, or any other lease that is accounted for as a financing lease by a lessor
32 under generally accepted accounting principles.

33 (b) "Financial institution" means:

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

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

40 (iii) a savings association or federal savings bank as defined in 12 U.S.C. Secs.
41 1813(b)(1) and (2);

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

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

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

46 (vii) a production credit association organized under the Federal Farm Credit Act of
47 1933, if all of the production credit association's stock held by the Federal
48 Production Credit Corporation has been retired;

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

53 (ix) a corporation or other business entity that derives from finance leases more than
54 50% of the corporation's or the business entity's total gross income for financial
55 accounting purposes:

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

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

59 (x) another person, other than an insurance company, a credit union exempt from the
60 corporation franchise tax under Section 59-7-102, a real estate broker, or a
61 securities dealer, that derives more than 50% of the person's gross income,
62 excluding non-recurring, extraordinary items, from activities that a person
63 described in Subsections (1)(b)(ii) through (vii) and (1)(b)(ix) is authorized to

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

68 (c)(i) "Sales from investment activities and assets and trading activities and assets"
69 means receipts from interest, dividends, a net gain, but not less than zero, or other
70 income from an investment security, a trading account asset, federal funds, a
71 security purchased and sold under an agreement to resell or repurchase, an option,
72 a future contract, a forward contract, equities, a foreign currency transaction, or a
73 notional principal contract, such as swaps.

74 (ii) "Sales from investment activities and assets and trading activities and assets"
75 includes:

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

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

84 (iii) "Sales from investment activities and assets and trading activities and assets"
85 does not include:

86 (A) receipts from the lease of real property;

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

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

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

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

91 (F) receipts from a credit card receivable;

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

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

94 (I) receipts from a merchant discount;

95 (J) a loan servicing fee;

96 (K) receipts from a service; or

97 (L) other receipts not addressed in Subsection (1)(c)(i) or Subsections

98 (1)(c)(iii)(A) through (K).

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

103 [~~(2)~~] (3) The total sales of an airline in this state during the tax period attributable to
104 transportation [~~revenues~~] revenue in this state during the tax period for purposes of the
105 numerator of the fraction described in Subsection (1) shall be calculated by determining
106 the product of:

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

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

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

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

118 Section 2. **Effective Date.**

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