

Trust Business Amendments
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Brady Brammer
House Sponsor:

LONG TITLE

General Description:

This bill amends provisions related to trust business.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the definition of "trust company" to remove a requirement that a corporation be continuously engaged in trust business since 1981 to qualify as a trust business;
- provides that a corporation offering accounts denominated in specie legal tender may qualify as a trust company in this state; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

7-5-1, as last amended by Laws of Utah 2013, Chapter 364

59-10-202, as last amended by Laws of Utah 2019, Chapter 412

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

Section 1. Section **7-5-1** is amended to read:

7-5-1 . Definitions -- Allowable trust companies -- Exceptions.

(1) As used in this chapter:

- (a) "Business trust" means an entity engaged in a trade or business that is created by a declaration of trust that transfers property to trustees, to be held and managed by [them] the trustees for the benefit of persons holding certificates representing the beneficial interest in the trust estate and assets.

(b) "Court appointed fiduciary" means a court appointed conservator, guardian, receiver, trustee, or other fiduciary that:

(i) is responsible to the court in the same manner as a personal representative under Title 75, Chapter 3, Part 5, Supervised Administration, or as a receiver under Rule 66, Utah Rules of Civil Procedure; and

(ii) is a certified public accountant or has qualified for and received a designation as a certified financial planner, chartered financial consultant, certified financial analyst, or similar designation suitable to the court, that evidences the conservator's, guardian's, receiver's, trustee's, or other fiduciary's professional competence to manage financial matters.

~~[(b)]~~ ~~(c)~~(i) "Trust business" means~~[-except as provided in Subsection (1)(c);]~~ a business in which ~~[one]~~ a person acts in any agency or fiduciary capacity, including that of personal representative, executor, administrator, conservator, guardian, assignee, receiver, depository, or trustee under appointment as trustee for any purpose permitted by law, including the definition of "trust" set forth in ~~[Subsection 75-1-201(55)]~~ Section 75-1-201.

~~[(c)]~~ ~~(d)~~(i) "Trust business" does not include the following means of holding money, assets, or other property:

~~[(i)]~~ ~~(A)~~ money held in a client trust account by an attorney authorized to practice law in this state;

~~[(ii)]~~ ~~(B)~~ money held in connection with the purchase or sale of real estate by a person licensed as a principal broker in accordance with Title 61, Chapter 2f, Real Estate Licensing and Practices Act;

~~[(iii)]~~ ~~(C)~~ money or other assets held in escrow by a person authorized by the department in accordance with Chapter 22, Regulation of Independent Escrow Agents, or by the Utah Insurance Department to act as an escrow agent in this state;

~~[(iv)]~~ ~~(D)~~ money held by a homeowners' association or similar organization to pay maintenance and other related costs for commonly owned property;

~~[(v)]~~ ~~(E)~~ money held in connection with the collection of debts or payments on loans by a person acting solely as the agent or representative or otherwise at the sole direction of the person to which the debt or payment is owed, including money held by an escrow agent for payment of taxes or insurance;

~~[(vi)]~~ ~~(F)~~ money and other assets held in trust on an occasional or isolated basis by

a person who does not represent that the person is engaged in the trust business in Utah;

~~[(vii)] (G)~~ money or other assets found by a court to be held in an implied, resulting, or constructive trust;

~~[(viii)] (H)~~ money or other assets held by a court appointed ~~[conservator, guardian, receiver, trustee, or other]~~ fiduciary~~[- if:]~~ ;

~~[(A) the conservator, receiver, guardian, trustee, or other fiduciary is responsible to the court in the same manner as a personal representative under Title 75, Chapter 3, Part 5, Supervised Administration, or as a receiver under Rule 66, Utah Rules of Civil Procedure; and]~~

~~[(B) the conservator, trustee, or other fiduciary is a certified public accountant or has qualified for and received a designation as a certified financial planner, chartered financial consultant, certified financial analyst, or similar designation suitable to the court, that evidences the conservator's, trustee's, or other fiduciary's professional competence to manage financial matters;]~~

~~[(ix)] (I)~~ money or other assets held by a credit services organization operating in compliance with Title 13, Chapter 21, Credit Services Organizations Act;

~~[(x)] (J)~~ money, securities, or other assets held in a customer account in connection with the purchase or sale of securities by a regulated securities broker, dealer, or transfer agent; or

~~[(xi)] (K)~~ money, assets, and other property held in a business trust for the benefit of holders of certificates of beneficial interest if the fiduciary activities of the business trust are merely incidental to conducting business in the business trust form.

~~[(d)] (e)~~ "Trust company" means~~[-an institution authorized to engage in the trust business under this chapter. Only the following may be a trust company]:~~

(i) a Utah depository institution or ~~[its]~~ the Utah depository institution's wholly owned subsidiary;

(ii) an out-of-state depository institution authorized to engage in business as a depository institution in Utah or ~~[its]~~ the out-of-state depository institution's wholly owned subsidiary;

(iii) a corporation, including a credit union service organization, owned entirely by one or more federally insured depository institutions as that term is defined in [Subsection 7-1-103(8)] Section 7-1-103;

- (iv) a direct or indirect subsidiary of a depository institution holding company that also has a direct or indirect subsidiary authorized to engage in business as a depository institution in Utah; and
- (v) any other corporation ~~[continuously and]~~ that lawfully ~~[engaged]~~ engages in the trust business in this state~~[-since before July 1, 1981]~~ , including a corporation offering accounts denominated in specie legal tender.

(2) Only a trust company may engage in the trust business in this state.

(3) The requirements of this chapter do not apply to:

- (a) an institution authorized to engage in a trust business in another state that~~[-is engaged-]~~ engages in trust activities in this state solely to fulfill ~~[its]~~ the institution's duties as a trustee of a trust created and administered in another state;
- (b) a national bank, federal savings bank, federal savings and loan association, or federal credit union authorized to engage in business as a depository institution in Utah, or any wholly owned subsidiary of ~~[any of these]~~ a national bank, federal savings bank, federal savings and loan association, or federal credit union authorized to engage in business as a depository institution in Utah, to the extent the ~~[institution is authorized by its primary federal regulator]~~ primary federal regulator authorizes the institution to engage in the trust business in this state; or
- (c) a state agency that ~~[is otherwise authorized by statute]~~ a statute authorizes to act as a conservator, receiver, guardian, trustee, or in any other fiduciary capacity.

Section 2. Section **59-10-202** is amended to read:

59-10-202 . Additions to and subtractions from unadjusted income of a resident or nonresident estate or trust.

(1) There shall be added to unadjusted income of a resident or nonresident estate or trust:

- (a) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code, in determining adjusted gross income;
- (b) except as provided in Subsection (3), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:
- (i) issued by one or more of the following entities:
- (A) a state other than this state;
- (B) the District of Columbia;
- (C) a political subdivision of a state other than this state; or

- 133 (D) an agency or instrumentality of an entity described in Subsections (1)(b)(i)(A)
134 through (C); and
- 135 (ii) to the extent the interest is not included in federal taxable income on the
136 taxpayer's federal income tax return for the taxable year;
- 137 (c) any portion of federal taxable income for a taxable year if that federal taxable income
138 is derived from stock:
- 139 (i) in an S corporation; and
- 140 (ii) that is held by an electing small business trust;
- 141 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,
142 from the account of a resident or nonresident estate or trust that is an account owner
143 as defined in Section 53B-8a-102, for the taxable year for which the amount is
144 withdrawn, if that amount withdrawn from the account of the resident or nonresident
145 estate or trust that is the account owner:
- 146 (i) is not expended for:
- 147 (A) higher education costs as defined in Section 53B-8a-102.5; or
- 148 (B) a payment or distribution that qualifies as an exception to the additional tax
149 for distributions not used for educational expenses provided in Sections 529(c)
150 and 530(d), Internal Revenue Code; and
- 151 (ii) is:
- 152 (A) subtracted by the resident or nonresident estate or trust:
- 153 (I) that is the account owner; and
- 154 (II) on the resident or nonresident estate's or trust's return filed under this
155 chapter for a taxable year beginning on or before December 31, 2007; or
- 156 (B) used as the basis for the resident or nonresident estate or trust that is the
157 account owner to claim a tax credit under Section 59-10-1017; and
- 158 (e) any fiduciary adjustments required by Section 59-10-210.
- 159 (2) There shall be subtracted from unadjusted income of a resident or nonresident estate or
160 trust:
- 161 (a) the interest or a dividend on obligations or securities of the United States and its
162 possessions or of any authority, commission, or instrumentality of the United States,
163 to the extent that interest or dividend is included in gross income for federal income
164 tax purposes for the taxable year but exempt from state income taxes under the laws
165 of the United States, but the amount subtracted under this Subsection (2) shall be
166 reduced by any interest on indebtedness incurred or continued to purchase or carry

the obligations or securities described in this Subsection (2), and by any expenses incurred in the production of interest or dividend income described in this Subsection (2) to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income;

(b) income of an irrevocable resident trust if:

(i) the income would not be treated as state taxable income derived from Utah sources under Section 59-10-204 if received by a nonresident trust;

(ii) the trust first became a resident trust on or after January 1, 2004;

(iii) no assets of the trust were held, at any time after January 1, 2003, in another resident irrevocable trust created by the same settlor or the spouse of the same settlor;

(iv) the trustee of the trust is a trust company as defined in ~~[Subsection 7-5-1(1)(d)]~~ Section 7-5-1;

(v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the settlor or any other person is treated as an owner of any portion of the trust under Subtitle A, Subchapter J, Subpart E of the Internal Revenue Code; and

(vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on indebtedness incurred or continued to purchase or carry the assets generating the income described in this Subsection (2)(b), and by any expenses incurred in the production of income described in this Subsection (2)(b), to the extent that those expenses, including amortizable bond premiums, are deductible in determining federal taxable income;

(c) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or nonresident estate or trust derived from a deceased Ute tribal member:

(i) during a time period that the Ute tribal member resided on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(d) any amount:

(i) received by a resident or nonresident estate or trust;

(ii) that constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(iii) to the extent that amount is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts for that

- 201 taxable year;
- 202 (e) the amount of a railroad retirement benefit:
- 203 (i) paid:
- 204 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231
- 205 et seq.;
- 206 (B) to a resident or nonresident estate or trust derived from a deceased resident or
- 207 nonresident individual; and
- 208 (C) for the taxable year; and
- 209 (ii) to the extent that railroad retirement benefit is included in total income on that
- 210 resident or nonresident estate's or trust's federal tax return for estates and trusts;
- 211 (f) an amount:
- 212 (i) received by a resident or nonresident estate or trust if that amount is derived from
- 213 a deceased enrolled member of an American Indian tribe; and
- 214 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
- 215 part on that amount in accordance with:
- 216 (A) federal law;
- 217 (B) a treaty; or
- 218 (C) a final decision issued by a court of competent jurisdiction;
- 219 (g) the amount that a qualified nongrantor charitable lead trust deducts under Section
- 220 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on
- 221 the qualified nongrantor charitable lead trust's federal income tax return for estates
- 222 and trusts for the taxable year;
- 223 (h) any fiduciary adjustments required by Section 59-10-210;
- 224 (i) an amount received:
- 225 (i) for the interest on a bond, note, or other obligation issued by an entity for which
- 226 state statute provides an exemption of interest on its bonds from state individual
- 227 income tax;
- 228 (ii) by a resident or nonresident estate or trust;
- 229 (iii) for the taxable year; and
- 230 (iv) to the extent the amount is included in federal taxable income on the taxpayer's
- 231 federal income tax return for the taxable year;
- 232 (j) for a taxable year beginning on or after January 1, 2019, but beginning on or before
- 233 December 31, 2019, only:
- 234 (i) the amount of any FDIC premium paid or incurred by the resident or nonresident

- 235 estate or trust that is disallowed as a deduction for federal income tax purposes
236 under Section 162(r), Internal Revenue Code, on the resident's or nonresident
237 estate's or trust's 2018 federal income tax return; plus
- 238 (ii) the amount of any FDIC premium paid or incurred by the resident or nonresident
239 estate or trust that is disallowed as a deduction for federal income tax purposes
240 under Section 162(r), Internal Revenue Code, for the taxable year; and
- 241 (k) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
242 premium paid or incurred by the resident or nonresident estate or trust that is
243 disallowed as a deduction for federal income tax purposes under Section 162(r),
244 Internal Revenue Code, for the taxable year.
- 245 (3) Notwithstanding Subsection (1)(b), interest from bonds, notes, and other evidences of
246 indebtedness issued by an entity described in Subsections (1)(b)(i)(A) through (D) may
247 not be added to unadjusted income of a resident or nonresident estate or trust if, as
248 annually determined by the commission:
- 249 (a) for an entity described in Subsection (1)(b)(i)(A) or (B), the entity and all of the
250 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax
251 based on income on any part of the bonds, notes, and other evidences of indebtedness
252 of this state; or
- 253 (b) for an entity described in Subsection (1)(b)(i)(C) or (D), the following do not impose
254 a tax based on income on any part of the bonds, notes, and other evidences of
255 indebtedness of this state:
- 256 (i) the entity; or
- 257 (ii)(A) the state in which the entity is located; or
- 258 (B) the District of Columbia, if the entity is located within the District of
259 Columbia.
- 260 (4)(a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:
- 261 (i) the income is derived from a deceased Ute tribal member; and
- 262 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
263 requirements of this Subsection (4).
- 264 (b) The agreement described in Subsection (4)(a):
- 265 (i) may not:
- 266 (A) authorize the state to impose a tax in addition to a tax imposed under this
267 chapter;
- 268 (B) provide a subtraction under this section greater than or different from the

- 269 subtraction described in Subsection (2)(c); or
270 (C) affect the power of the state to establish rates of taxation; and
271 (ii) shall:
272 (A) provide for the implementation of the subtraction described in Subsection
273 (2)(c);
274 (B) be in writing;
275 (C) be signed by:
276 (I) the governor; and
277 (II) the chair of the Business Committee of the Ute tribe;
278 (D) be conditioned on obtaining any approval required by federal law; and
279 (E) state the effective date of the agreement.
- 280 (c)(i) The governor shall report to the commission by no later than February 1 of each
281 year regarding whether or not an agreement meeting the requirements of this
282 Subsection (4) is in effect.
- 283 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
284 subtraction permitted under Subsection (2)(c) is not allowed for taxable years
285 beginning on or after the January 1 following the termination of the agreement.
- 286 (d) For purposes of Subsection (2)(c) and in accordance with Title 63G, Chapter 3, Utah
287 Administrative Rulemaking Act, the commission may make rules:
288 (i) for determining whether income is derived from a source within the Uintah and
289 Ouray Reservation; and
290 (ii) that are substantially similar to how adjusted gross income derived from Utah
291 sources is determined under Section 59-10-117.

292 **Section 3. Effective Date.**

293 This bill takes effect on May 7, 2025.