

# SB0116S01 compared with SB0116

~~{Omitted text}~~ shows text that was in SB0116 but was omitted in SB0116S01  
inserted text shows text that was not in SB0116 but was inserted into SB0116S01

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

1	<div>Income Tax Rate Modifications</div> <div>2026 GENERAL SESSION</div> <div>STATE OF UTAH</div> <div>Chief Sponsor: Lincoln Fillmore</div> <div>House Sponsor:</div>
2	
3	LONG TITLE
4	General Description:
5	This bill modifies the income tax rates.
6	Highlighted Provisions:
7	This bill:
8	▸ defines terms;
9	▸ provides for a reduction of the income tax rate when the actual state revenue exceeds the forecast
	revenue;
11	▸ provides a formula and process for calculating a reduction of the income tax rate;
12	▸ requires the State Tax Commission to publish the income tax rate annually;
13	▸ changes the mineral production tax withholding rate; and
14	▸ makes technical and conforming changes.
15	Money Appropriated in this Bill:
16	None
17	Other Special Clauses:
18	This bill provides a special effective date.

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### Utah Code Sections Affected:

#### AMENDS:

**59-1-101** , as last amended by Laws of Utah 2009, Chapter 212  
**59-6-102** , as last amended by Laws of Utah 2008, Chapter 255  
**59-7-104** , as last amended by Laws of Utah 2025, Chapter 407  
**59-7-201** , as last amended by Laws of Utah 2025, Chapter 407  
**59-7-610** , as last amended by Laws of Utah 2021, Chapter 367  
**59-7-701** , as last amended by Laws of Utah 2016, Chapters 87, 135 and 222  
**59-7-802** , as last amended by Laws of Utah 1995, Chapter 311  
**59-10-104** , as last amended by Laws of Utah 2025, Chapter 407  
**59-10-116** , as last amended by Laws of Utah 2022, Chapter 252  
**59-10-201** , as last amended by Laws of Utah 2025, First Special Session, Chapter 9  
**59-10-205** , as last amended by Laws of Utah 2008, Chapter 389  
**59-10-1007** , as last amended by Laws of Utah 2021, Chapter 367  
**59-10-1017** , as last amended by Laws of Utah 2025, First Special Session, Chapter 9  
**59-10-1022** , as last amended by Laws of Utah 2021, Chapter 367  
**59-10-1023** , as last amended by Laws of Utah 2021, Chapter 367  
**59-10-1028** , as last amended by Laws of Utah 2021, Chapter 367  
**59-10-1035** , as last amended by Laws of Utah 2021, Chapter 367  
**59-10-1036** , as last amended by Laws of Utah 2021, Chapter 367  
**59-10-1042** , as last amended by Laws of Utah 2025, Chapter 182  
**59-10-1043** , as last amended by Laws of Utah 2022, Chapter 258  
**59-10-1403.2** , as last amended by Laws of Utah 2023, Chapter 470  
**59-10-1403.3** , as last amended by Laws of Utah 2021, Chapter 367  
**63I-1-259** , as last amended by Laws of Utah 2025, Chapter 270

#### ENACTS:

**59-1-1901** , Utah Code Annotated 1953  
**59-1-1902** , Utah Code Annotated 1953

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

Section 1. Section **59-1-101** is amended to read:

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### 59-1-101. Definitions.

As used in this title:

- (1) "Commission" and "tax commission" mean the State Tax Commission.
- (2) "Deficiency" [is as] means the same as that term is defined in Section 59-1-1402.
- (3) "Income tax rate" means:
  - (a) for a taxable year beginning on or after January 1, 2027, and beginning before January 1, 2028,  
4.5%;
  - (b) for a taxable year beginning on or after January 1, 2028, and beginning before January 1, 2038, the  
rate calculated and published in accordance with Section 59-1-1902; and
  - (c) for a taxable year beginning on or after January 1, 2038, the rate that is in effect for the immediately  
preceding taxable year.

Section 2. Section 2 is enacted to read:

### 59-1-1901. Definitions.

#### 19. Income Tax Rate

- (1) "Consensus entities" means:
  - (a) the Office of the Legislative Fiscal Analyst;
  - (b) the commission; and
  - (c) the Governor's Office of Planning and Budget.
- (2) "Cost per .01 percentage points" means:
  - (a) for the period between July 1, 2027, and October 1, 2027, \$22,202,000;
  - (b) for the period between July 1, 2028, and October 1, 2028, \$23,272,000;
  - (c) for the period between July 1, 2029, and October 1, 2029, \$24,381,000;
  - (d) for the period between July 1, 2030, and October 1, 2030, \$25,532,000;
  - (e) for the period between July 1, 2031, and October 1, 2031, \$26,730,000;
  - (f) for the period between July 1, 2032, and October 1, 2032, \$27,978,000;
  - (g) for the period between July 1, 2033, and October 1, 2033, \$29,276,000;
  - (h) for the period between July 1, 2034, and October 1, 2034, \$30,627,000;
  - (i) for the period between July 1, 2035, and October 1, 2035, \$32,034,000; and
  - (j) for the period between July 1, 2036, and October 1, 2036, \$33,504,000.
- (2){(3)} "Forecast revenue" means state revenue of:
  - (a) for the fiscal year ending June 30, 2027, \$13,052,369,000;

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- (b) for the fiscal year ending June 30, 2028, \$13,681,320,000;  
(c) for the fiscal year ending June 30, 2029, \$14,333,144,000;  
(d) for the fiscal year ending June 30, 2030, \$15,009,527,000;  
(e) for the fiscal year ending June 30, 2031, \$15,713,679,000;  
(f) for the fiscal year ending June 30, 2032, \$16,447,226,000;  
(g) for the fiscal year ending June 30, 2033, \$17,210,270,000;  
(h) for the fiscal year ending June 30, 2034, \$18,004,432,000;  
(i) for the fiscal year ending June 30, 2035, \$18,831,769,000; and  
(j) for the fiscal year ending June 30, 2036, \$19,696,018,000.  
(3){(4)} "State revenue" means unrestricted revenue generated from:  
(a) liquor markups required by Section 32B-2-304;  
(b) earnings on investment of state money deposited into the General Fund under Section 51-7-4;  
(c) severance tax imposed under Chapter 5, Severance Tax on Oil, Gas, and Mining;  
(d) mineral production tax withholding required by Chapter 6, Mineral Production Tax Withholding;  
(e) income tax imposed under Chapter 7, Corporate Franchise and Income Taxes, and Chapter 10,  
Individual Income Tax Act;  
(f) premiums tax imposed under Chapter 9, Taxation of Admitted Insurers;  
(g) state sales and use tax imposed under Chapter 12, Sales and Use Tax Act;  
(h) taxes imposed under Chapter 13, Motor and Special Fuel Tax Act;  
(i) taxes imposed on cigarettes and tobacco under Chapter 14, Cigarette and Tobacco Tax and Licensing  
Act;  
(j) beer tax imposed under Chapter 15, Beer Tax;  
(k) mineral lease funds described in Chapter 21, Mineral Lease Funds;  
(l) multi-channel video or audio service tax imposed under Section 59-26-103; and  
(m) other payments to the General Fund {or} , Income Tax Fund, or Transportation Fund, including  
fees, surcharges, penalties, interest, lapsing funds, rebates, and settlements.  
(4){(5)} "Unrestricted revenue" means revenue that is not statutorily dedicated or earmarked for a  
particular use.

Section 3. Section 3 is enacted to read:

### **59-1-1902. Calculation of income tax rate.**

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- 114 (1) c1
- (a) On or after July 1 and before {September} ~~October~~ 1 of each year between 2027 and 2036, the consensus entities shall determine whether the actual state revenue for the previous fiscal year exceeds the forecast revenue for the previous fiscal year.
- 106 (b)
- (i) If the consensus entities determine that the actual state revenue for the previous fiscal year exceeds the forecast revenue for the previous fiscal year, the {income tax rate for} ~~consensus entities shall calculate~~ the {taxable year} ~~amount~~ that {begins on or after the next January 1 decreases, subject to Subsections (1)(b)(ii) and (1)(b)(iii), to a rate projected to reduce income tax revenue by an amount} ~~is~~ equal to one-half of the difference between actual state revenue for the previous fiscal year and forecast revenue for the previous fiscal year.
- 113 (ii) {The} ~~Subject to Subsection (1)(b)(iii), the~~ income tax rate decreases {only if the rate projected to reduce income tax revenue} by {one-half of the difference between actual state revenue for the previous fiscal year and forecast revenue for the previous year is at least .01 lower than the income tax rate} ~~.01 percentage points for each cost per .01 percentage points~~ in {effect for} the {taxable year} ~~amount calculated~~ in {which the consensus entities make the determination} ~~accordance with Subsection (1)(b)(i).~~
- 118 (iii) The income tax rate {shall be rounded to the second decimal place} ~~decreases only in intervals of .01 percentage points.~~
- 119 (c) If the consensus entities determine that the actual state revenue for the previous fiscal year does not exceed the forecast revenue for the previous fiscal year, the income tax rate for the taxable year beginning on or after the next January 1 remains the same as the income tax rate for the current taxable year.
- 123 (2) On or before November 1, the commission shall publish the income tax rate for the taxable year beginning on or after the next January 1.
- 133 Section 4. Section **59-6-102** is amended to read:
- 134 **59-6-102. Producer's obligation to deduct and withhold payments -- Amount -- Exempt payments -- Credit against tax.**
- 128 [(1) Except as provided in Subsection (2), each producer shall deduct and withhold from each payment being made to any person in respect to production of minerals in this state, but not including that to

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which the producer is entitled, an amount equal to 5% of the amount which would have otherwise been payable to the person entitled to the payment.]

(1) Except as provided in Subsection (2), each producer shall deduct and withhold from each payment being made to any person in respect to production of minerals in this state, but not including the payment to which the producer is entitled, an amount equal to the income tax rate multiplied by the amount payable to the person entitled to the payment.

(2) The obligation to deduct and withhold from payments as provided in Subsection (1) does not apply to those payments ~~[which]~~ that are payable to:

(a) the United States, this state, or an agency or political subdivision of the United States or this state;

(b) an organization that is exempt from the taxes imposed by Chapter 7, Corporate Franchise and Income Taxes, in accordance with Subsection 59-7-102(1)(a);

(c) an Indian or Indian tribe if the amounts accruing are subject to the supervision of the United States or an agency of the United States; or

(d) a business entity that files an exemption certificate in accordance with Section 59-6-102.1.

(3) A claimant, estate, or trust that files a tax return with the commission may claim a refundable tax credit against the tax reflected on the tax return for the amount withheld by the producer under Subsection (1).

Section 5. Section **59-7-104** is amended to read:

### **59-7-104. Tax -- Minimum tax.**

(1) Each domestic and foreign corporation, except a corporation that is exempt under Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable income for the taxable year for the privilege of exercising the corporation's corporate franchise or for the privilege of doing business in the state.

(2) The tax imposed by Subsection (1) is the amount equal to the income tax rate multiplied by a corporation's Utah taxable income.

~~[(2) The tax shall be 4.5% of a corporation's Utah taxable income.]~~

(3) The minimum tax a corporation shall pay under this chapter is \$100.

Section 6. Section **59-7-201** is amended to read:

### **59-7-201. Tax -- Minimum tax.**

(1) There is imposed upon each corporation, except a corporation that is exempt under Section 59-7-102, a tax upon the corporation's Utah taxable income for the taxable year that is derived from

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sources within this state other than income for any period that the corporation is required to include in the corporation's tax base under Section 59-7-104.

165 [~~(2) The tax imposed by Subsection (1) shall be 4.5% of a corporation's Utah taxable income.~~]

167 (2) The tax imposed by Subsection (1) is the amount equal to the income tax rate multiplied by a corporation's Utah taxable income.

169 (3) In no case shall the tax be less than \$100.

178 Section 7. Section **59-7-610** is amended to read:

179 **59-7-610. Recycling market development zones tax credits.**

172 (1) Subject to other provisions of this section, a taxpayer that is a business operating in a recycling market development zone as defined in Section 19-13-102 may claim the following nonrefundable tax credits:

175 (a) a tax credit equal to the product of the [~~percentage listed in Subsection 59-7-104(2)~~] income tax rate and the purchase price paid for machinery and equipment used directly in:

178 (i) commercial composting; or

179 (ii) manufacturing facilities or plant units that:

180 (A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

182 (B) reduce or reuse postconsumer waste material; and

183 (b) a tax credit equal to the lesser of:

184 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in the state; and

187 (ii) \$2,000.

188 (2)

(a) To claim a tax credit described in Subsection (1), the taxpayer shall receive from the Department of Environmental Quality a written certification, on a form [~~approved by~~] the commission approves, that includes:

191 (i) a statement that the taxpayer is operating a business within the boundaries of a recycling market development zone;

193 (ii) for a claim of the tax credit described in Subsection (1)(a):

194 (A) the type of the machinery and equipment that the taxpayer purchased;

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- 195 (B) the date that the taxpayer purchased the machinery and equipment;  
196 (C) the purchase price for the machinery and equipment;  
197 (D) the total purchase price for all machinery and equipment for which the taxpayer is claiming a tax  
credit;  
199 (E) a statement that the machinery and equipment are integral to the composting or recycling process;  
and  
201 (F) the amount of the taxpayer's tax credit; and  
202 (iii) for a claim of the tax credit described in Subsection (1)(b):  
203 (A) the type of net expenditure that the taxpayer made to a third party;  
204 (B) the date that the taxpayer made the payment to a third party;  
205 (C) the amount that the taxpayer paid to each third party;  
206 (D) the total amount that the taxpayer paid to all third parties;  
207 (E) a statement that the net expenditures support the establishment and operation of recycling or  
composting technology in the state; and  
209 (F) the amount of the taxpayer's tax credit.  
210 (b)  
(i) The Department of Environmental Quality shall provide a taxpayer seeking to claim a tax credit  
under Subsection (1) with a copy of the written certification.  
212 (ii) The taxpayer shall retain a copy of the written certification for the same period of time that a person  
is required to keep books and records under Section 59-1-1406.  
214 (c) The Department of Environmental Quality shall submit to the commission an electronic list that  
includes:  
216 (i) the name and identifying information of each taxpayer to which the Department of Environmental  
Quality issues a written certification; and  
218 (ii) for each taxpayer, the amount of each tax credit listed on the written certification.  
219 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that  
exceeds 40% of the taxpayer's state income tax liability as the tax liability is calculated:  
222 (a) for the taxable year in which the taxpayer made the purchases or payments;  
223 (b) before any other tax credits the taxpayer may claim for the taxable year; and  
224 (c) before the taxpayer claims a tax credit authorized by this section.  
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(4) The commission shall make rules governing what information a taxpayer shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) [~~through (8)~~] and (7), a taxpayer may carry forward, to the next three taxable years, the amount of a tax credit described in Subsection (1)(a) that the taxpayer does not use for the taxable year.

(6) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(7) A taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

Section 8. Section **59-7-701** is amended to read:

### **59-7-701. Taxation of S corporations.**

(1) Except as provided in Section 59-7-102 and subject to the other provisions of this part, beginning on July 1, 1994, and ending on the last day of the taxable year that begins on or after January 1, 2012, but begins on or before December 31, 2012, an S corporation is subject to taxation in the same manner as that S corporation is taxed under Subchapter S - Tax Treatment of S Corporations and Their Shareholders, Sec. 1361 et seq., Internal Revenue Code.

(2) An S corporation is taxed at the income tax rate[ ~~provided in Section 59-7-104~~].

(3) The business income and nonbusiness income of an S corporation is subject to Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions.

(4) An S corporation having income derived from or connected with Utah sources shall make a return in accordance with Sections 59-10-507 and 59-10-514.

(5) An S corporation shall make payments of estimated tax as required by Section 59-7-504.

(6) An S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.

(7) A pass-through entity taxpayer as defined in Section 59-10-1402 of an S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.

(8) Provisions under this chapter governing the following apply to an S corporation:

(a) an assessment;

(b) a penalty;

(c) a refund; or

(d) a record required for an S corporation.

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Section 9. Section **59-7-802** is amended to read:

**59-7-802. Taxation of unrelated business income.**

- (1) An organization [~~which~~] that is exempt from taxation as provided in Subsection 59-7-102(1) or Section 59-10-126 shall be subject to the tax imposed by this part on [~~its~~] the organization's Utah unrelated business income.
- (2) Utah unrelated business income shall be taxed at the income tax rate [~~provided in Section 59-7-104~~] except that the minimum tax does not apply to organizations subject to the tax under this part.

Section 10. Section **59-10-104** is amended to read:

**59-10-104. Tax basis -- Tax rate -- Exemption.**

- (1) A tax is imposed on the state taxable income of a resident individual as provided in this section.
- (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:
  - (a) the resident individual's state taxable income for that taxable year; and
  - (b) the income tax rate.

[~~(b) 4.5%.~~]
- (3) This section does not apply to a resident individual exempt from taxation under Section 59-10-104.1.

Section 11. Section **59-10-116** is amended to read:

**59-10-116. Tax on nonresident individual -- Calculation -- Exemption.**

- (1) Except as provided in Subsection (2), a tax is imposed on a nonresident individual in an amount equal to the product of [~~the~~]:
  - (a) the nonresident individual's state taxable income; and
  - (b) [~~percentage listed in Subsection 59-10-104(2).~~] the income tax rate.
- (2) This section does not apply to a nonresident individual:
  - (a) exempt from taxation under Section 59-10-104.1; or
  - (b) whose only state source income is wages that are excluded in accordance with Section 59-10-117.5.

Section 12. Section **59-10-201** is amended to read:

**59-10-201. Taxation of resident trusts and estates.**

- (1) Except as provided in Subsection (2), a tax [~~determined in accordance with the rate prescribed by Subsection 59-10-104(2)(b).~~] is imposed for each taxable year on [~~the state taxable income of~~] each resident estate or trust in the amount equal to the income tax rate multiplied by the resident estate's or trust's state taxable income.

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- 294 (2) The following are not subject to a tax imposed by this part:
- 295 (a) a resident estate or trust that is not required to file a federal income tax return for estates and trusts  
for the taxable year; or
- 297 (b) a resident trust taxed as a corporation.
- 298 (3) A resident estate or trust shall be allowed the credit provided in Section 59-10-1003, relating to an  
income tax imposed by another state, except that the limitation shall be computed by reference to  
the taxable income of the estate or trust.
- 301 (4) The property of the Utah Educational Savings Plan established in Title 53H, Chapter 10, Utah  
Education Savings, and the Utah Educational Savings Plan's income from operations and  
investments are exempt from all taxation by the state under this chapter.
- 312 Section 13. Section **59-10-205** is amended to read:
- 313 **59-10-205. Tax on nonresident estate or trust.**
- 306 (1) Except as provided in Subsection (2), a tax is imposed on a nonresident estate or trust in an amount  
equal to the product of:
- 308 (a) the nonresident estate's or trust's state taxable income as determined under Section 59-10-204; and
- 310 (b) the ~~[percentage listed in Subsection 59-10-104(2)]~~ income tax rate.
- 311 (2) The following are not subject to a tax imposed by this part:
- 312 (a) a nonresident estate or trust that is not required to file a federal income tax return for estates and  
trusts for the taxable year; or
- 314 (b) a nonresident trust taxed as a corporation.
- 323 Section 14. Section **59-10-1007** is amended to read:
- 324 **59-10-1007. Recycling market development zones tax credits.**
- 317 (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling market  
development zone as defined in Section 19-13-102 may claim the following nonrefundable tax  
credits:
- 320 (a) a tax credit equal to the product of the ~~[percentage listed in Subsection 59-10-104(2)]~~ income tax  
rate and the purchase price paid for machinery and equipment used directly in:
- 323 (i) commercial composting; or
- 324 (ii) manufacturing facilities or plant units that:
- 325 (A) manufacture, process, compound, or produce recycled items of tangible personal property for sale;  
or

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- 327 (B) reduce or reuse postconsumer waste material; and  
328 (b) a tax credit equal to the lesser of:  
329 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test inventory, and utilities  
made by the claimant, estate, or trust for establishing and operating recycling or composting  
technology in the state; and  
332 (ii) \$2,000.  
333 (2)  
(a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust shall receive from  
the Department of Environmental Quality a written certification, on a form [~~approved by~~]the  
commission approves, that includes:  
336 (i) a statement that the claimant, estate, or trust is operating within the boundaries of a recycling  
market development zone;  
338 (ii) for a claim of the tax credit described in Subsection (1)(a):  
339 (A) the type of the machinery and equipment that the claimant, estate, or trust purchased;  
341 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;  
343 (C) the purchase price for the machinery and equipment;  
344 (D) the total purchase price for all machinery and equipment for which the claimant, estate, or trust is  
claiming a tax credit;  
346 (E) the amount of the claimant's, estate's, or trust's tax credit; and  
347 (F) a statement that the machinery and equipment are integral to the composting or recycling process;  
and  
349 (iii) for a claim of the tax credit described in Subsection (1)(b):  
350 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;  
352 (B) the date that the claimant, estate, or trust made the payment to a third party;  
353 (C) the amount that the claimant, estate, or trust paid to each third party;  
354 (D) the total amount that the claimant, estate, or trust paid to all third parties;  
355 (E) a statement that the net expenditures support the establishment and operation of recycling or  
composting technology in the state; and  
357 (F) the amount of the claimant's, estate's, or trust's tax credit.  
358 (b)

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(i) The Department of Environmental Quality shall provide a claimant, estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written certification.

(ii) The claimant, estate, or trust shall retain a copy of the written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.

(c) The Department of Environmental Quality shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the Department of Environmental Quality issues a written certification; and

(ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written certification.

(3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income tax liability as the tax liability is calculated:

(a) for the taxable year in which the claimant, estate, or trust made the purchases or payments;

(b) before any other tax credits the claimant, estate, or trust may claim for the taxable year; and

(c) before the claimant, estate, or trust claims a tax credit authorized by this section.

(4) The commission shall make rules governing what information a claimant, estate, or trust shall file with the commission to verify the entitlement to and amount of a tax credit.

(5) Except as provided in Subsections (6) [~~through (8)~~] and (7), a claimant, estate, or trust may carry forward, to the next three taxable years, the amount of a tax credit described in Subsection (1)(a) that the claimant, estate, or trust does not use for the taxable year.

(6) A claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

Section 15. Section **59-10-1017** is amended to read:

**59-10-1017. Utah Educational Savings Plan tax credit.**

(1) As used in this section:

(a) "Account owner" means the same as that term is defined in Section 53H-10-101.

(b) "Grantor trust" means the same as that term is defined in Section 53H-10-201.

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- 394 (c) "Higher education costs" means the same as that term is defined in Section 53H-10-201.
- 396 (d) "Maximum amount of a qualified investment for the taxable year" means, for a taxable year, the  
product of the ~~[percentage listed in Subsection 59-10-104(2)]~~ income tax rate and:
- 399 (i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account owner, if that  
claimant, estate, or trust is other than husband and wife account owners who file a single return  
jointly, the maximum amount of a qualified investment:
- 403 (A) listed in Subsection 53H-10-205(1)(e)(ii); and
- 404 (B) increased or kept for that taxable year in accordance with Subsections 53H-10-205(1)(f) and (g);
- 406 (ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account owners who file a  
single return jointly, the maximum amount of a qualified investment:
- 409 (A) listed in Subsection 53H-10-205(1)(e)(iii); and
- 410 (B) increased or kept for that taxable year in accordance with Subsections 53H-10-205(1)(f) and (g); or
- 412 (iii) for a grantor trust:
- 413 (A) if the owner of the grantor trust has a single filing status or head of household filing status as  
defined in Section 59-10-1018, the amount described in Subsection (1)(d)(i); or
- 416 (B) if the owner of the grantor trust has a joint filing status as defined in Section 59-10-1018, the  
amount described in Subsection (1)(d)(ii).
- 418 (e) "Owner of the grantor trust" means the same as that term is defined in Section 53H-10-201.
- 420 (f) "Qualified investment" means the same as that term is defined in Section 53H-10-201.
- 421 (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of this section, a  
claimant, estate, or trust that is an account owner may claim a nonrefundable tax credit equal to the  
product of:
- 424 (a) the amount of a qualified investment made:
- 425 (i) during the taxable year; and
- 426 (ii) into an account owned by the claimant, estate, or trust; and
- 427 ~~[(b) the percentage listed in Subsection 59-10-104(2).]~~
- 428 (b) the income tax rate.
- 429 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may make a qualified  
investment described in Subsection (2).
- 431

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(4) A claimant, estate, or trust that is an account owner may not claim a tax credit under this section with respect to any portion of a qualified investment described in Subsection (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal income tax return.

(5) A tax credit under this section may not exceed the maximum amount of a qualified investment for the taxable year.

(6) A claimant, estate, or trust that is an account owner may not carry forward or carry back the tax credit under this section.

Section 16. Section **59-10-1022** is amended to read:

### **59-10-1022. Nonrefundable tax credit for capital gain transactions.**

(1) As used in this section:

(a)

~~[(i)]~~ "Capital gain transaction" means a transaction that results in a:

~~[(A)]~~ (i) short-term capital gain; or

~~[(B)]~~ (ii) long-term capital gain.

~~[(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "transaction."]~~

(b) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(c) "Long-term capital gain" ~~[is-as]~~ means the same as that term is defined in Section 1222, Internal Revenue Code.

(d) "Qualifying stock" means stock that is:

(i)

(A) common; or

(B) preferred;

~~(ii) [as defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,]~~originally issued to:

(A) a claimant, estate, or trust; or

(B) a partnership if the claimant, estate, or trust that claims a tax credit under this section:

(I) was a partner on the day on which the stock was issued; and

(II) remains a partner until the last day of the taxable year for which the claimant, estate, or trust claims a tax credit under this section; and

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- 462 (iii) issued:
- 463 (A) by a Utah small business corporation;
- 464 (B) on or after January 1, 2008; and
- 465 (C) for~~[:]~~ money or other property, except for stock or securities.
- 466 ~~[(H) money; or]~~
- 467 ~~[(H) other property, except for stock or securities.]~~
- 468 (e) "Short-term capital gain" ~~[is as]~~ means the same as that term is defined in Section 1222, Internal  
Revenue Code.
- 470 (f)
- (i) "Utah small business corporation" means a corporation that:
- 471 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as defined in Section  
1244(c)(3), Internal Revenue Code;
- 473 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section 1244(c)(1)(C),  
Internal Revenue Code; and
- 475 (C) has ~~[its]~~ the corporation's commercial domicile in this state.
- 476 (ii) The dollar amount listed in Section 1244(c)(3)(A), Internal Revenue Code, is considered to be  
\$2,500,000.
- 478 (iii) The phrase "the date the loss on such stock was sustained" in Sections 1244(c)(1)(C) and 1244(c)  
(2), Internal Revenue Code, is considered to be "the last day of the taxable year for which the  
claimant, estate, or trust claims a tax credit under this section."
- 482 (2) ~~[For taxable years beginning on or after January 1, 2008, a]~~ A claimant, estate, or trust that meets  
the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the product of:
- 485 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or long-term capital gain  
on a capital gain transaction that occurs on or after January 1, 2008; and
- 488 (b) the income tax rate.
- 489 ~~[(b) the percentage listed in Subsection 59-10-104(2).]~~
- 490 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the nonrefundable tax credit  
allowed by Subsection (2) if:
- 492 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:
- 493 (i) to purchase qualifying stock in a Utah small business corporation; and
- 494 (ii) within a 12-month period after the day on which the capital gain transaction occurs; and



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(b) ~~[prior to]~~ before the purchase of the qualifying stock described in Subsection (3)(a)(i), the claimant, estate, or trust did not have an ownership interest in the Utah small business corporation that issued the qualifying stock.

(4) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) defining the ~~[term]~~ terms:

(i) "gross proceeds";

(ii) "transaction"; or

(iii) "originally issued"; and

(b) ~~[prescribing]~~ providing the circumstances under which a claimant, estate, or trust has an ownership interest in a Utah small business corporation.

Section 17. Section **59-10-1023** is amended to read:

**59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit plan.**

(1) As used in this section:

(a) "Claimant with dependents" means a claimant:

(i) regardless of the claimant's filing status for purposes of filing a federal individual income tax return for the taxable year; and

(ii) who claims one or more dependents under Section 151, Internal Revenue Code, as allowed on the claimant's federal individual income tax return for the taxable year.

(b) "Eligible insured individual" means:

(i) the claimant who is insured under a health benefit plan;

(ii) the spouse of the claimant described in Subsection (1)(b)(i) if:

(A) the claimant files a single return jointly under this chapter with the claimant's spouse for the taxable year; and

(B) the spouse is insured under the health benefit plan described in Subsection (1)(b)(i); or

(iii) a dependent of the claimant described in Subsection (1)(b)(i) if:

(A) the claimant claims the dependent under Section 151, Internal Revenue Code, as allowed on the claimant's federal individual income tax return for the taxable year; and

(B) the dependent is insured under the health benefit plan described in Subsection (1)(b)(i).

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(c) "Excluded expenses" means an amount a claimant pays for insurance offered under a health benefit plan for a taxable year if:

(i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue Code:

(A) on the claimant's federal individual income tax return for the taxable year; and

(B) with respect to an eligible insured individual;

(ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue Code:

(A) on the claimant's federal individual income tax return for the taxable year; and

(B) with respect to an eligible insured individual; or

(iii) the claimant excludes that amount from gross income under Section 106 or 125, Internal Revenue Code, with respect to an eligible insured individual.

(d)

(i) "Health benefit plan" ~~[is as]~~ means the same as that term is defined in Section 31A-1-301.

(ii) "Health benefit plan" does not include equivalent self-insurance as defined by the Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) "Joint claimant with no dependents" means ~~[a husband and wife]~~ spouses who:

(i) file a single return jointly under this chapter for the taxable year; and

(ii) do not claim a dependent under Section 151, Internal Revenue Code, on the ~~[husband's and wife's]~~ spouses' federal individual income tax return for the taxable year.

(f) "Single claimant with no dependents" means:

(i) a single individual who:

(A) files a single federal individual income tax return for the taxable year; and

(B) does not claim a dependent under Section 151, Internal Revenue Code, on the single individual's federal individual income tax return for the taxable year;

(ii) a head of household:

(A) as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year; and

(B) who does not claim a dependent under Section 151, Internal Revenue Code, on the head of household's federal individual income tax return for the taxable year; or

(iii) a married individual who:

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(A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(B) does not claim a dependent under Section 151, Internal Revenue Code, on that married individual's federal individual income tax return for the taxable year.

(2) Subject to Subsection (3), and except as provided in Subsection (4), ~~[for taxable years beginning on or after January 1, 2009,]~~ a claimant may claim a nonrefundable tax credit equal to the product of:

(a) the difference between:

(i) the total amount the claimant pays during the taxable year for:

(A) insurance offered under a health benefit plan; and

(B) an eligible insured individual; and

(ii) excluded expenses; and

(b) the income tax rate.

~~[(b) the percentage listed in Subsection 59-10-104(2).]~~

(3) The maximum amount of a tax credit described in Subsection (2) a claimant may claim on a return for a taxable year is:

(a) for a single claimant with no dependents, \$300;

(b) for a joint claimant with no dependents, \$600; or

(c) for a claimant with dependents, \$900.

(4) A claimant may not claim a tax credit under this section if the claimant is eligible to participate in insurance offered under a health benefit plan maintained and funded in whole or in part by:

(a) the claimant's employer; or

(b) another person's employer.

(5) A claimant may not carry forward or carry back a tax credit under this section.

Section 18. Section **59-10-1028** is amended to read:

**59-10-1028. Nonrefundable tax credit for capital gain transactions on the exchange of one form of legal tender for another form of legal tender.**

(1) As used in this section:

(a) "Capital gain transaction" means a transaction that results in a:

(i) short-term capital gain; or

(ii) long-term capital gain.

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(b) "Long-term capital gain" [is-as] means the same as that term is defined in Section 1222, Internal Revenue Code.

(c) "Long-term capital loss" [is-as] means the same as that term is defined in Section 1222, Internal Revenue Code.

(d) "Net capital gain" means the amount by which the sum of long-term capital gains and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges made for a taxable year of one form of legal tender for another form of legal tender exceeds the sum of long-term capital losses and short-term capital losses on those transactions for that taxable year.

~~[(e) {f}]~~ "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.]

~~[(f)]~~ (e) "Short-term capital gain" [is-as] means the same as that term is defined in Section 1222, Internal Revenue Code.

(g){(f)} "Short-term capital loss" means the same as that term is defined in Section 1222, Internal Revenue Code.

(2) Except as provided in Section 59-10-1002.2, [for taxable years beginning on or after January 1, 2012,] a claimant, estate, or trust may claim a nonrefundable tax credit equal to the product of:

(a) to the extent a net capital gain is included in taxable income, the amount of the claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of legal tender; and

[~~(b) the percentage listed in Subsection 59-10-104(2);~~]

~~(b) the income tax rate.~~

(3) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 19. Section **59-10-1035** is amended to read:

**59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better Life Experience Program account.**

(1) As used in this section:

(a) "Account" means an account in a qualified ABLE program where the designated beneficiary of the account is a resident of this state.

(b) "Contributor" means a claimant, estate, or trust that:

(i) makes a contribution to an account; and

## SB0116 compared with SB0116S01

- (ii) receives a statement from the qualified ABLE program itemizing the contribution.
- (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec. 529A.
- (d) "Qualified ABLE program" means the same as that term is defined in Section 35A-12-102.
- (2) A contributor to an account may claim a nonrefundable tax credit as provided in this section.
- (3) Subject to the other provisions of this section, the tax credit is equal to the product of:
- [~~(a) the percentage listed in Subsection 59-10-104(2); and~~]
- (a) the income tax rate; and
- (b) the total amount of contributions:
- (i) the contributor makes for the taxable year; and
- (ii) for which the contributor receives a statement from the qualified ABLE program itemizing the contributions.
- (4) A contributor may not claim a tax credit under this section:
- (a) for an amount of excess contribution to an account that is returned to the contributor; or
- (b) with respect to an amount the contributor deducts on a federal income tax return.
- (5) A contributor may not carry forward or carry back a tax credit under this section~~[may not be carried forward or carried back]~~.
- Section 20. Section **59-10-1036** is amended to read:
- 59-10-1036. Nonrefundable tax credit for military survivor benefits.**
- (1) As used in this section:
- (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.
- (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec. 10101.
- (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.
- (d) "Survivor benefits" means the amount paid by the federal government in accordance with 10 U.S.C. Secs. 1447 through 1455.
- (2) A surviving spouse or a dependent child may claim a nonrefundable tax credit for survivor benefits if the benefits are paid due to:
- (a) the death of a member of the armed forces or reserve components while on active duty; or
- (b) the death of a member of the reserve components that results from a service-connected cause while performing inactive duty training.
- (3) The tax credit described in Subsection (2) is equal to the product of:

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(a) the amount of survivor benefits that the surviving spouse or dependent child received during the taxable year; and

(b) the income tax rate.

~~[(b) the percentage listed in Subsection 59-10-104(2).]~~

(4) ~~[The tax credit described in Subsection (2):]~~ A surviving spouse or a dependent child may not carry forward or carry back a tax credit under this section.

~~[(a) may not be carried forward or carried back; and]~~

~~[(b) applies to a taxable year beginning on or after January 1, 2017.]~~

Section 21. Section **59-10-1042** is amended to read:

### **59-10-1042. Nonrefundable tax credit for social security benefits.**

(1) As used in this section:

(a) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.

(b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

(c) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(d) "Modified adjusted gross income" means the sum of the following for a claimant or, if the claimant's return under this chapter is allowed a joint filing status, the claimant and the claimant's spouse:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(d)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(d)(i).

(e) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(f) "Social security benefit" means an amount received by a claimant as a monthly benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

(2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), each claimant on a return that receives a social security benefit may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the product of:

## SB0116 compared with SB0116S01

- 703 [(a) the percentage listed in Subsection 59-10-104(2); and]  
704 (a) the income tax rate; and  
705 (b) the claimant's social security benefit that is included in the claimant's state taxable income for the  
taxable year.  
707 (3) A claimant may not:  
708 (a) carry forward or carry back the amount of a tax credit under this section that exceeds the claimant's  
tax liability for the taxable year; or  
710 (b) claim a tax credit under this section for a taxable year if a tax credit under Section 59-10-1019 is  
claimed on the claimant's return for the same taxable year.  
712 (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part [~~shall be~~] is  
reduced by \$.025 for each dollar by which modified adjusted gross income for purposes of the  
return exceeds:  
715 (a) for a return filed under this chapter that is allowed a married filing separately status, \$45,000;  
717 (b) for a return filed under this chapter that is allowed a single filing status, \$54,000;  
718 (c) for a return filed under this chapter that is allowed a head of household filing status, \$90,000; or  
720 (d) for a return filed under this chapter that is allowed a joint filing status, \$90,000.  
721 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission  
may make rules governing the calculation and method for claiming the tax credit described in this  
section.  
732 Section 22. Section **59-10-1043** is amended to read:  
733 **59-10-1043. Nonrefundable tax credit for military retirement.**  
726 (1) As used in this section:  
727 (a)  
(i) "Military retirement pay" means retirement pay, including survivor benefits, that relates to service in  
the armed forces or the reserve components, as described in 10 U.S.C. Sec. 10101.  
730 (ii) "Military retirement pay" does not include:  
731 (A) [~~Social~~] social [~~Security~~] social security income;  
732 (B) 401(k) or IRA distributions; or  
733 (C) income from other sources.  
734 (b) "Survivor benefits" means the retired pay portion of the benefits described in 10 U.S.C. Secs. 1447  
through 1455.

## SB0116 compared with SB0116S01

- 736 (2) Except as provided in Section 59-10-1002.2, a claimant who receives military retirement pay may  
claim a nonrefundable tax credit against taxes equal to the product of:
- 739 [~~(a) the percentage listed in Subsection 59-10-104(2); and~~  
740 (a) the income tax rate; and  
741 (b) the amount of military retirement pay that is included in adjusted gross income on the claimant's  
federal income tax return for the taxable year.
- 743 (3) A claimant may not:
- 744 (a) carry forward or carry back the amount of a tax credit that exceeds the claimant's tax liability for the  
taxable year; or
- 746 (b) claim a tax credit under this section for a taxable year if a tax credit under Section 59-10-1019 is  
claimed on the claimant's return for the same taxable year.
- 756 Section 23. Section **59-10-1403.2** is amended to read:
- 757 **59-10-1403.2. Pass-through entity payment or withholding of tax on behalf of a pass-  
through entity taxpayer -- Exceptions to payment or withholding requirement -- Procedures and  
requirements -- Failure to pay or withhold a tax on behalf of a pass-through entity taxpayer.**
- 753 (1)
- (a) Except as provided in Subsections (1)(b) and (2), for a taxable year, a pass-through entity shall pay  
or withhold a tax:
- 755 (i) on:
- 756 (A) the business income of the pass-through entity; and
- 757 (B) the nonbusiness income of the pass-through entity derived from or connected with Utah sources;  
and
- 759 (ii) on behalf of a pass-through entity taxpayer.
- 760 (b) A pass-through entity is not required to pay or withhold a tax under Subsection (1)(a):
- 761 (i) on behalf of a final pass-through entity taxpayer who is a resident individual;
- 762 (ii) if the pass-through entity is an organization exempt from taxation under Subsection 59-7-102(1)(a);
- 764 (iii) if the pass-through entity:
- 765 (A) is a plan under Section 401, 408, or 457, Internal Revenue Code; and
- 766 (B) is not required to file a return under Chapter 7, Corporate Franchise and Income Taxes, or this  
chapter;
- 768 (iv) if the pass-through entity is a publicly traded partnership:



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- 769 (A) as defined in Section 7704(b), Internal Revenue Code;
- 770 (B) that is classified as a partnership for federal income tax purposes; and
- 771 (C) that files an annual information return reporting the following with respect to each partner of the  
publicly traded partnership with income derived from or connected with Utah sources that exceeds  
\$500 in a taxable year:
- 774 (I) the partner's name;
- 775 (II) the partner's address;
- 776 (III) the partner's taxpayer identification number; and
- 777 (IV) other information required by the commission; or
- 778 (v) on behalf of a final pass-through entity taxpayer that is a nonresident individual if the pass-through  
entity pays the tax described in Subsection (2).
- 780 (2)
- (a) For each taxable year that begins on or after January 1, 2022, but begins on or before December 31,  
2025, a pass-through entity that is not a disregarded pass-through entity may elect to pay a tax in an  
amount equal to the product of:
- 783 [~~(i) the percentage listed in Subsection 59-10-104(2); and~~]
- 784 (i) the income tax rate; and
- 785 (ii) voluntary taxable income.
- 786 (b) A pass-through entity that elects to pay the tax in accordance with Subsection (2)(a) shall notify any  
final pass-through entity taxpayer of that election.
- 788 (c) A pass-through entity that pays a tax described in Subsection (2)(a) shall provide to each final pass-  
through entity taxpayer a statement that states:
- 790 (i) the amount of tax paid under Subsection (2)(a) on the income attributed to the final pass-through  
entity taxpayer; and
- 792 (ii) the amount of tax paid to another state by the pass-through entity on income:
- 793 (A) attributed to the final pass-through entity taxpayer; and
- 794 (B) that the commission determines is substantially similar to the tax under Subsection (2)(a).
- 796 (d) A payment of the tax described in Subsection (2)(a) on or before the last day of the taxable year:
- 798 (i) is an irrevocable election to be subject to the tax for the taxable year; and
- 799 (ii) may not be refunded.
- 800 (3)

## **SB0116 compared with SB0116S01**

(a) Subject to Subsection (3)(b), the tax a pass-through entity shall pay or withhold on behalf of a pass-through entity taxpayer for a taxable year is an amount:

(i) determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) that the commission estimates will be sufficient to pay the tax liability of the pass-through entity taxpayer under this chapter with respect to the income described in Subsection (1)(a)(i) or (2)(a)(ii) of that pass-through entity for the taxable year.

(b) The rules the commission makes in accordance with Subsection (3)(a):

(i) except as provided in Subsection (3)(c):

(A) shall:

(I) for a pass-through entity except for a pass-through entity that is an S corporation, take into account items of income, gain, loss, deduction, and credit as analyzed on the schedule for reporting partners' distributive share items as part of the federal income tax return for the pass-through entity; or

(II) for a pass-through entity that is an S corporation, take into account items of income, gain, loss, deduction, and credit as reconciled on the schedule for reporting shareholders' pro rata share items as part of the federal income tax return for the pass-through entity; and

(B) notwithstanding Subsection (3)(b)(ii)(D), take into account the refundable tax credit provided in Section 59-6-102; and

(ii) may not take into account the following items if taking those items into account does not result in an accurate estimate of a pass-through entity taxpayer's tax liability under this chapter for the taxable year:

(A) a capital loss;

(B) a passive loss;

(C) another item of deduction or loss if that item of deduction or loss is generally subject to significant reduction or limitation in calculating:

(I) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes, unadjusted income as defined in Section 59-7-101;

(II) for a pass-through entity that is classified as an individual, partnership, or S corporation for federal income tax purposes, adjusted gross income; or

(III) for a pass-through entity that is classified as an estate or a trust for federal income tax purposes, unadjusted income as defined in Section 59-10-103; or

## SB0116 compared with SB0116S01

- 835 (D) a tax credit allowed against a tax imposed under:  
836 (I) Chapter 7, Corporate Franchise and Income Taxes; or  
837 (II) this chapter.
- 838 (c) The rules the commission makes in accordance with Subsection (3)(a) may establish a method for  
taking into account items of income, gain, loss, deduction, or credit of a pass-through entity if:  
841 (i) for a pass-through entity except for a pass-through entity that is an S corporation, the pass-through  
entity does not analyze the items of income, gain, loss, deduction, or credit on the schedule for  
reporting partners' distributive share items as part of the federal income tax return for the pass-  
through entity; or  
845 (ii) for a pass-through entity that is an S corporation, the pass-through entity does not reconcile the  
items of income, gain, loss, deduction, or credit on the schedule for reporting shareholders' pro rata  
share items as part of the federal income tax return for the pass-through entity.
- 849 (4)  
(a) Except as provided in Subsection (4)(b), a pass-through entity shall remit to the commission the  
tax the pass-through entity pays or withholds on behalf of a pass-through entity taxpayer under this  
section:  
852 (i) on or before the due date of the pass-through entity's return, not including extensions; and  
854 (ii) on a form ~~[provided by]~~the commission provides.
- 855 (b) A pass-through entity shall remit the tax described in Subsection (2) on or before the last day of the  
pass-through entity's taxable year.
- 857 (c) The commission shall consider only the amount of tax remitted as provided in Subsection (4)(b), on  
or before the last day of the pass-through entity's taxable year as a payment described in Subsection  
(2).
- 860 (d) Except as provided in Subsection (1)(b), a pass-through entity that files an amended return under  
this part shall pay or withhold tax on any increase in the income described in Subsection (1)(a)(i) on  
behalf of the pass-through entity taxpayer and remit that tax to the commission.
- 864 (5) A pass-through entity shall provide a statement to a pass-through entity taxpayer on behalf of whom  
the pass-through entity pays or withholds a tax under this section showing the amount of tax the  
pass-through entity pays or withholds under this section for the taxable year on behalf of the pass-  
through entity taxpayer.

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## SB0116 compared with SB0116S01

- (6) Notwithstanding Section 59-1-401 or 59-1-402, the commission may not collect an amount under this section for a taxable year from a pass-through entity and shall waive any penalty and interest on that amount if:
- 871 (a) the pass-through entity fails to pay or withhold the tax on the amount as required by this section on  
behalf of the pass-through entity taxpayer;
- 873 (b) the pass-through entity taxpayer:
- 874 (i) files a return on or before the due date for filing the pass-through entity's return, including  
extensions; and
- 876 (ii) on or before the due date including extensions described in Subsection (6)(b)(i), pays the tax on the  
amount for the taxable year:
- 878 (A) if the pass-through entity taxpayer is classified as a C corporation for federal income tax purposes,  
under Chapter 7, Corporate Franchise and Income Taxes; or
- 881 (B) if the pass-through entity taxpayer is classified as an estate, individual, partnership, S corporation,  
or a trust for federal income tax purposes, under this chapter; and
- 884 (c) the pass-through entity applies to the commission.
- 885 (7) Notwithstanding Section 59-1-401 or 59-1-402, the commission may not collect an amount under  
this section for a taxable year from a pass-through entity that is a trust and shall waive any penalty  
and interest on that amount if:
- 888 (a) the pass-through entity fails to pay or withhold the tax on the amount as required by this section on  
behalf of a dependent beneficiary;
- 890 (b) the pass-through entity applies to the commission; and
- 891 (c)
- (i) the dependent beneficiary complies with the requirements of Subsection (6)(b); or
- 893 (ii)
- (A) the dependent beneficiary's adjusted gross income for the taxable year does not exceed the basic  
standard deduction for the dependent beneficiary, as calculated under Section 63, Internal Revenue  
Code, for that taxable year; and
- 896 (B) the trustee of the trust retains a statement of dependent beneficiary income on behalf of the  
dependent beneficiary.
- 898 (8) If a pass-through entity would have otherwise qualified for a waiver of a penalty and interest under  
Subsection (7), except that the trustee of a trust has not applied to the commission as required by

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Subsection (7)(b) or retained the statement of dependent beneficiary income required by Subsection (7)(c)(ii)(B), it is a rebuttable presumption in an audit that the pass-through entity would have otherwise qualified for the waiver of the penalty and interest under Subsection (7).

Section 24. Section **59-10-1403.3** is amended to read:

### **59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.**

(1) As used in this section[;] ,

[(a) "Committee" means the Revenue and Taxation Interim Committee.]

[(b) "Qualifying"] "qualifying excess withholding" means an amount that:

[(i)] (a) is paid or withheld:

[(A)] (i) by a pass-through entity that has a different taxable year than the pass-through entity that requests a refund under this section; and

[(B)] (ii) on behalf of the pass-through entity that requests the refund, if the pass-through entity that requests the refund also is a pass-through entity taxpayer; and

[(ii)] (b) is equal to the difference between:

[(A)] (i) the amount paid or withheld for the taxable year on behalf of the pass-through entity that requests the refund; and

[(B)] (ii) the product of the [~~percentage listed in Subsection 59-10-104(2)~~] income tax rate and the income, described in Subsection 59-10-1403.2(1)(a)(i), of the pass-through entity that requests the refund.

(2) [~~For a taxable year ending on or after July 1, 2017, a~~] A pass-through entity may claim a refund of qualifying excess withholding, if the amount of the qualifying excess withholding is equal to or greater than \$250,000.

(3) A pass-through entity that requests a refund of qualifying excess withholding under this section shall:

(a) apply to the commission for a refund on or, subject to Subsection (4), after the day on which the pass-through entity files the pass-through entity's income tax return; and

(b) provide any information that the commission may require to determine that the pass-through entity is eligible to receive the refund.

(4) A pass-through entity shall claim a refund of qualifying excess withholding under this section within 30 days after the earlier of the day on which:

(a) the pass-through entity files an income tax return; or

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- 933 (b) the pass-through entity's income tax return is due, including any extension of due date authorized in  
statute.
- 935 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission  
may make rules establishing the information that a pass-through entity shall provide to the  
commission to obtain a refund of qualifying excess withholding under this section.
- 939 [(6)  
(a) ~~On or before November 30, 2018, the committee shall review the \$250,000 threshold described in  
Subsection (2) for the purpose of assessing whether the threshold amount should be maintained,  
increased, or decreased.]~~
- 942 [(b) ~~To assist the committee in conducting the review described in Subsection (6)(a), the commission  
shall provide the committee with:]~~
- 944 [(i) ~~the total number of refund requests made under this section;~~]
- 945 [(ii) ~~the total costs of any refunds issued under this section;~~]
- 946 [(iii) ~~the costs of any audits conducted on refund requests made under this section; and]~~
- 948 [(iv) ~~an estimation of:]~~
- 949 [(A) ~~the number of refund requests the commission expects to receive if the Legislature increases the  
threshold;~~]
- 951 [(B) ~~the number of refund requests the commission expects to receive if the Legislature decreases the  
threshold; and]~~
- 953 [(C) ~~the costs of any audits the commission would conduct if the Legislature increases or decreases the  
threshold.]~~
- 963 Section 25. Section **63I-1-259** is amended to read:
- 964 **63I-1-259. Repeal dates: Title 59.**
- 957 (1) Subsection 59-1-403(4)(aa), regarding a requirement for the State Tax Commission to inform the  
Department of Workforce Services whether an individual claimed a federal earned income tax  
credit, is repealed July 1, 2029.
- 960 (2) Subsection 59-1-101(3)(a), regarding the tax rate for a taxable year beginning on or after January 1,  
2027, and {on or} before January 1, 2028, is repealed July 1, 2038.
- 962 (3) Subsection 59-1-101(3)(b), regarding the tax rate for a taxable year beginning on or after January 1,  
2028, and before January 1, 2038, is repealed July 1, 2038.
- 964 (4) Title 59, Chapter 1, Part 19, Income Tax Rate, is repealed July 1, 2038.

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- 965      [(2)] (5) Section 59-2-1603, Allocation of money in the Property Tax Valuation Fund -- Use of funds, is  
repealed July 1, 2030.
- 967      [(3)] (6) Section 59-5-304, Tax credit for mining exploration, is repealed July 1, 2037.
- 968      [(4)] (7) Section 59-7-618.1, Tax credit related to alternative fuel heavy duty vehicles, is repealed July  
1, 2029.
- 970      [(5)] (8) Section 59-9-102.5, Offset for occupational health and safety related donations, is repealed  
December 31, 2030.
- 972      [(6)] (9) Section 59-10-1033.1, Tax credit related to alternative fuel heavy duty vehicles, is repealed  
July 1, 2029.
- 974      [(7)] (10) Subsection 59-28-103(5), regarding a tax rate on certain transactions that take place within a  
county of the first class, is repealed July 1, 2047.
- 984      Section 26. **Effective date.**  
Effective Date.
- 977      (1) Except as provided in Subsection (2), this bill takes effect for a taxable year beginning on or after  
January 1, 2027.
- 979      (2) The actions affecting the following sections take effect on January 1, 2027:
- 980      (a) Section 59-1-101;
- 981      (b) Section 59-1-1901;
- 982      (c) Section 59-1-1902; and
- 983      (d) Section 63I-1-259.

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