

Part 14
Assessment, Collections, and Refunds Act

59-1-1401 Title.

This part is known as the "Assessment, Collections, and Refunds Act."

Enacted by Chapter 212, 2009 General Session

59-1-1402 Definitions.

As used in this part:

- (1) "Administrative cost" means a fee imposed to cover:
 - (a) the cost of filing;
 - (b) the cost of administering a garnishment;
 - (c) the amount the commission pays to a depository institution in accordance with Title 59, Chapter 1, Part 17, Depository Institution Data Match System and Levy Act; or
 - (d) a cost similar to Subsections (1)(a) through (c) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) "Books and records" means the following made available in printed or electronic format:
 - (a) an account;
 - (b) a book;
 - (c) an invoice;
 - (d) a memorandum;
 - (e) a paper;
 - (f) a record; or
 - (g) an item similar to Subsections (2)(a) through (f) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3) "Deficiency" means:
 - (a) the amount by which a tax, fee, or charge exceeds the difference between:
 - (i) the sum of:
 - (A) the amount shown as the tax, fee, or charge by a person on the person's return; and
 - (B) any amount previously assessed, or collected without assessment, as a deficiency; and
 - (ii) any amount previously abated, credited, refunded, or otherwise repaid with respect to that tax, fee, or charge; or
 - (b) if a person does not show an amount as a tax, fee, or charge on the person's return, or if a person does not make a return, the amount by which the tax, fee, or charge exceeds:
 - (i) the amount previously assessed, or collected without assessment, as a deficiency; and
 - (ii) any amount previously abated, credited, refunded, or otherwise repaid with respect to that tax, fee, or charge.
- (4) "Garnishment" means any legal or equitable procedure through which one or more of the following are required to be withheld for payment of an amount a person owes:
 - (a) an asset of the person held by another person; or
 - (b) the earnings of the person.
- (5) "Liability" means the following that a person is required to remit to the commission:
 - (a) a tax, fee, or charge;
 - (b) an addition to a tax, fee, or charge;
 - (c) an administrative cost;
 - (d) interest that accrues in accordance with Section 59-1-402; or

- (e) a penalty that accrues in accordance with Section 59-1-401.
- (6)
 - (a) Subject to Subsection (6)(b), "mathematical error" is as defined in Section 6213(g)(2), Internal Revenue Code.
 - (b) The reference to Section 6213(g)(2), Internal Revenue Code, in Subsection (6)(a) means:
 - (i) the reference to Section 6213(g)(2), Internal Revenue Code, in effect for the taxable year; or
 - (ii) a corresponding or comparable provision of the Internal Revenue Code as amended, redesignated, or reenacted.
- (7)
 - (a) Except as provided in Subsection (7)(b), "tax, fee, or charge" means:
 - (i) a tax, fee, or charge the commission administers under:
 - (A) this title;
 - (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
 - (D) Section 19-6-410.5;
 - (E) Section 19-6-714;
 - (F) Section 19-6-805;
 - (G) Section 32B-2-304;
 - (H) Section 34A-2-202;
 - (I) Section 40-6-14;
 - (J) Section 69-2-5;
 - (K) Section 69-2-5.5; or
 - (L) Section 69-2-5.6; or
 - (ii) another amount that by statute is administered by the commission.
 - (b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
 - (i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
 - (ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
 - (iii) Chapter 2, Property Tax Act;
 - (iv) Chapter 3, Tax Equivalent Property Act;
 - (v) Chapter 4, Privilege Tax; or
 - (vi) Chapter 13, Part 5, Interstate Agreements.
- (8) "Transferee" means:
 - (a) a devisee;
 - (b) a distributee;
 - (c) a donee;
 - (d) an heir;
 - (e) a legatee; or
 - (f) a person similar to Subsections (8)(a) through (e) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 326, 2016 General Session

59-1-1402.1 Exceptions to applicability of this part.

This part does not apply to:

- (1) Chapter 2, Property Tax Act;
- (2) Chapter 3, Tax Equivalent Property Act; or
- (3) Chapter 4, Privilege Tax.

Enacted by Chapter 52, 2011 General Session

59-1-1403 Commission to collect a tax, fee, or charge -- Receipt for tax, fee, or charge paid -- Additional remedies -- Collection agents and counsel -- Action by attorney general or county attorney -- Commission rulemaking authority.

- (1) Except as otherwise provided in this title, the commission shall collect a tax, fee, or charge.
- (2) The commission may designate an agent to collect a tax, fee, or charge.
- (3) The commission shall, upon request, give a receipt for a tax, fee, or charge the commission collects.
- (4)
 - (a) A remedy provided in this part is in addition to other existing remedies.
 - (b) An action taken by the commission may not be construed to be an election on the part of the state or an officer of the state to pursue a remedy under this part to the exclusion of another remedy.
- (5) The commission may:
 - (a) retain counsel for the purpose of collecting an amount the commission assesses against a person who is not a resident of this state;
 - (b) establish the compensation of an agent described in Subsection (2) or counsel described in Subsection (5)(a) to be paid out of money appropriated or otherwise lawfully available for payment to the agent or counsel; and
 - (c) require a bond or other security for an agent described in Subsection (2) or counsel described in Subsection (5)(a) in a form and amount the commission considers appropriate.
- (6)
 - (a) The commission shall represent the state in a matter pertaining to the collection of a tax, fee, or charge.
 - (b) The commission may institute a proceeding to enforce a judgment allowing for the collection of a liability in the district court of a county in which is located a portion of property against which collection is sought.
 - (c) For purposes of Subsection (6)(b), the commission may request that the following assist the commission:
 - (i) the attorney general; or
 - (ii) a county attorney.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish a collection procedure:
 - (a) in addition to the methods of collecting a liability provided in this title;
 - (b) that is consistent with this part;
 - (c) that uses a return, warrant, or other reasonable document or method; and
 - (d) that is necessary in collecting a liability.

Enacted by Chapter 212, 2009 General Session

59-1-1404 Definition -- Mailing procedures -- Rulemaking authority -- Commission mailing requirements.

- (1) As used in this section, "Section 7502, Internal Revenue Code" means:
 - (a) Section 7502, Internal Revenue Code, in effect for the taxable year; or
 - (b) a corresponding or comparable provision to Section 7502, Internal Revenue Code, as amended, redesignated, or reenacted.
- (2) If the commission or a person is required to mail a document under this part:

- (a) the commission or the person shall mail the document using:
 - (i) the United States Postal Service; or
 - (ii) a delivery service the commission describes or designates in accordance with any rules the commission makes as authorized by Subsection (3); and
- (b) the document is considered to be mailed:
 - (i) for a document that is mailed using the method described in Subsection (2)(a)(i), on the date the document is postmarked; or
 - (ii) for a document that is mailed using the method described in Subsection (2)(a)(ii), on the date the delivery service records or marks the document as having been received by the delivery service for delivery in accordance with any rules the commission makes as authorized by Subsection (3).
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
 - (a) describing or designating one or more delivery services the commission or a person may use to mail a document under this part if a delivery service the commission describes or specifies is consistent with the definition of "designated delivery service" in Section 7502, Internal Revenue Code; or
 - (b) providing procedures or requirements for determining the date a delivery service records or marks a document as having been received by the delivery service for delivery if those rules are consistent with Section 7502, Internal Revenue Code.
- (4) Subject to Subsection (5), if the commission is required to mail a notice to a person under this part, the commission shall mail the notice to the person at the person's last-known address as shown on the records of the commission.
- (5) In the case of a joint return filed by a husband and wife under Chapter 10, Individual Income Tax Act, if the commission is notified in writing by either spouse that separate residences have been established, the commission shall mail a duplicate of the joint notice to each spouse at each spouse's last-known address.

Enacted by Chapter 212, 2009 General Session

59-1-1405 Notice of deficiency -- Notice of assessment -- Amended return -- Exception.

- (1) Except as provided in Subsection (3) or (5), the commission shall mail a notice of deficiency to a person in accordance with Section 59-1-1404 if the commission finds there is:
 - (a) a deficiency in a tax, fee, or charge imposed; or
 - (b) an increase or decrease in a deficiency.
- (2) A notice of deficiency described in Subsection (1) shall contain:
 - (a) the details of the deficiency; and
 - (b) the manner of computing the tax.
- (3) If the commission estimates an amount of tax, fee, or charge due under Subsection 59-1-1406(2), the commission:
 - (a) shall mail a notice of deficiency:
 - (i) to the person for which the commission estimates the amount of tax, fee, or charge due; and
 - (ii) in accordance with Section 59-1-1404; or
 - (b) shall:
 - (i) mail a notice to the person for which the commission estimates the amount of tax, fee, or charge due:
 - (A) that the amount the commission estimates as a tax, fee, or charge is an assessment; and
 - (B) in accordance with Section 59-1-1404; and

- (ii) provide in the notice described in Subsection (3)(b)(i) that if the person files an amended return within the time period provided in Section 59-1-1410, the commission shall replace the assessment with the amount shown on the person's amended return.
- (4) If the commission mails notice to a person under Subsection (3)(b), the person may file an amended return within the period provided in Section 59-1-1410 to replace the assessment of tax.
- (5) If the commission makes a jeopardy assessment under Part 7, Termination and Jeopardy Assessments Procedure:
 - (a) the commission is not required to mail a notice of deficiency described in Subsection (1) to the person against which the commission makes the jeopardy assessment; and
 - (b) the jeopardy assessment is subject to the procedures and requirements of Part 7, Termination and Jeopardy Assessments Procedure.

Enacted by Chapter 212, 2009 General Session

59-1-1406 Record retention -- Commission estimates tax if person fails to file a return.

- (1) A person subject to a tax, fee, or charge shall:
 - (a) keep in a form prescribed by the commission books and records that are necessary to determine the amount of a tax, fee, or charge the person owes;
 - (b) keep books and records described in Subsection (1)(a) for the time period during which an assessment may be made under Section 59-1-1408; and
 - (c) open the person's books and records for examination at any time by:
 - (i) the commission; or
 - (ii) an agent or representative the commission designates.
- (2)
 - (a) If a person required to file a return with the commission fails to file the return with the commission, the commission may estimate the tax, fee, or charge due from the best information or knowledge the commission can obtain.
 - (b) An estimate the commission makes under Subsection (2)(a) is considered to be a return filed on the date the commission makes the estimate.
- (3) For the purpose of ascertaining the correctness of a return or for estimating a tax, fee, or charge due in accordance with Subsection (2)(a), the commission may:
 - (a) examine the books and records bearing upon the matter required to be included in a return;
 - (b) authorize an agent or representative designated by the commission to examine the books and records bearing upon the matter required to be included in a return;
 - (c) require the attendance of:
 - (i) an officer or employee of a person required to make a return; or
 - (ii) a person having knowledge of a pertinent fact;
 - (d) take testimony; or
 - (e) require any other necessary information.

Enacted by Chapter 212, 2009 General Session

59-1-1407 Mathematical errors.

- (1) The commission shall correct a mathematical error.
- (2) The commission shall provide notice to a person if:
 - (a) because of a mathematical error appearing on a return, an amount of tax, fee, or charge in excess of that shown upon the return is due; and

- (b) an assessment of the amount of tax, fee, or charge is or will be made on the basis of what would have been the correct amount of tax, fee, or charge but for the mathematical error.
- (3) The notice required by Subsection (2):
 - (a) shall describe the mathematical error; and
 - (b) is not considered to be a notice of deficiency.
- (4) For purposes of Subsection (2):
 - (a) there is no restriction upon the assessment and collection of an amount of tax, fee, or charge described in Subsection (2); and
 - (b) the person described in Subsection (2) does not have a right to:
 - (i) file a petition to the commission on the basis of a notice provided under Subsection (2); or
 - (ii) apply for review by a district court or the Utah Supreme Court of the determination of a mathematical error by the commission.

Enacted by Chapter 212, 2009 General Session

59-1-1408 Assessments.

- (1) Except as provided in Subsections (2) through (4), an assessment is made on the date a liability is posted to the records of the commission.
- (2) Except as provided in Subsection (4), for purposes of a liability for which the commission mails a notice of deficiency to a person in accordance with Section 59-1-1405, an assessment is made:
 - (a) if a person has not filed a petition for redetermination of a deficiency under Section 59-1-501, on the date:
 - (i)
 - (A) 30 days after the day on which the commission mails the notice of deficiency to the person; or
 - (B) 90 days after the day on which the commission mails the notice of deficiency to the person if the notice is addressed to a person outside the United States or the District of Columbia; or
 - (ii) the person in writing:
 - (A) agrees with the commission on the existence and amount of the liability; and
 - (B) consents to the assessment of the liability; or
 - (b) if a person files a petition for redetermination of a deficiency under Section 59-1-501, on the date the liability resulting from a final commission decision is posted to the records of the commission.
- (3) Except as provided in Subsection (4), for purposes of a notice of proposed penalty under Section 59-1-302 or Subsection 59-1-401(7), an assessment is made:
 - (a) if a person has not filed a petition for redetermination of a deficiency under Section 59-1-501, on the date:
 - (i)
 - (A) 30 days after the day on which the commission mails the notice of proposed penalty to the person; or
 - (B) 90 days after the day on which the commission mails the notice of proposed penalty to the person if the notice is addressed to a person outside the United States or the District of Columbia; or
 - (ii) the person in writing:
 - (A) agrees with the commission on the existence and amount of the liability; and
 - (B) consents to the assessment of the liability; or

- (b) if a person files a petition for redetermination of a deficiency under Section 59-1-501, on the date the liability resulting from a final commission decision is posted to the records of the commission.
- (4) In the case of interest under Section 59-1-402 that accrues to a tax, fee, or charge, an assessment is considered to have been made on the date the tax, fee, or charge is assessed.
- (5) The commission may at any time within the time period prescribed for assessment under Section 59-1-1410, increase or decrease an assessment if the commission ascertains that the assessment is imperfect or incomplete in a material respect.

Enacted by Chapter 212, 2009 General Session

59-1-1409 Definition -- Recomputation of amounts due -- Refunds allowed.

- (1) As used in this section, "overpayment" means the amount by which a tax, fee, or charge a person pays exceeds the amount of tax, fee, or charge the person owes.
- (2) If the commission determines that the correct amount of a tax, fee, or charge a person is required to remit is greater or less than the amount shown to be due on a return, the commission shall:
 - (a) recompute the tax, fee, or charge; and
 - (b) mail notice to the person:
 - (i) that the commission recomputed the tax, fee, or charge; and
 - (ii) in accordance with Section 59-1-1404.
- (3) If the amount of a tax, fee, or charge a person pays exceeds the amount of tax, fee, or charge the person owes, the commission shall:
 - (a) credit the overpayment against any liability the person owes; and
 - (b) refund any balance to:
 - (i) the person; or
 - (ii)
 - (A) the person's assign;
 - (B) the person's personal representative;
 - (C) the person's successor; or
 - (D) a person similar to Subsections (3)(b)(ii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) The commission may not credit or refund interest on an overpayment to a person if the commission determines that the overpayment was made for the purpose of investment.
- (5) If the commission erroneously determines an amount of tax, fee, or charge to be due from a person, the commission shall:
 - (a) authorize the amount to be cancelled upon the commission's records; and
 - (b) mail notice to the person:
 - (i) that the commission cancelled the amount upon the commission's records; and
 - (ii) in accordance with Section 59-1-1404.

Enacted by Chapter 212, 2009 General Session

59-1-1410 Action for collection of tax, fee, or charge -- Action for refund or credit of tax, fee, or charge -- Denial of refund claim under appeal -- Appeal of denied refund claim.

- (1)

- (a) Except as provided in Subsections (3) through (7) and Sections 59-5-114, 59-7-519, 59-10-536, and 59-11-113, the commission shall assess a tax, fee, or charge within three years after the day on which a person files a return.
 - (b) Except as provided in Subsections (3) through (7), if the commission does not assess a tax, fee, or charge within the three-year period provided in Subsection (1)(a), the commission may not commence a proceeding to collect the tax, fee, or charge.
- (2)
- (a) Except as provided in Subsection (2)(b), for purposes of this part, a return filed before the last day prescribed by statute or rule for filing the return is considered to be filed on the last day for filing the return.
 - (b) A return of withholding tax under Chapter 10, Part 4, Withholding of Tax, is considered to be filed on April 15 of the succeeding calendar year if the return:
 - (i) is for a period ending with or within a calendar year; and
 - (ii) is filed before April 15 of the succeeding calendar year.
- (3) The commission may assess a tax, fee, or charge or commence a proceeding for the collection of a tax, fee, or charge at any time if:
- (a) a person:
 - (i) files a:
 - (A) false return with intent to evade; or
 - (B) fraudulent return with intent to evade; or
 - (ii) fails to file a return; or
 - (b) the commission estimates the amount of tax, fee, or charge due in accordance with Subsection 59-1-1406(2).
- (4) The commission may extend the period to make an assessment or to commence a proceeding to collect a tax, fee, or charge if:
- (a) the three-year period under Subsection (1) has not expired; and
 - (b) the commission and the person sign a written agreement:
 - (i) authorizing the extension; and
 - (ii) providing for the length of the extension.
- (5) The commission may make an assessment as provided in Subsection (6) if:
- (a) the commission delays an audit at the request of a person;
 - (b) the person subsequently refuses to agree to an extension request by the commission; and
 - (c) the three-year period under Subsection (1) expires before the commission completes the audit.
- (6) An assessment under Subsection (5) shall be:
- (a) for the time period for which the commission could not make the assessment because of the expiration of the three-year period; and
 - (b) in an amount equal to the difference between:
 - (i) the commission's estimate of the amount of tax, fee, or charge the person would have been assessed for the time period described in Subsection (6)(a); and
 - (ii) the amount of tax, fee, or charge the person actually paid for the time period described in Subsection (6)(a).
- (7) If a person erroneously pays a liability, overpays a liability, pays a liability more than once, or the commission erroneously receives, collects, or computes a liability, the commission shall:
- (a) credit the liability against any amount of liability the person owes; and
 - (b) refund any balance to:
 - (i) the person; or
 - (ii)

- (A) the person's assign;
 - (B) the person's personal representative;
 - (C) the person's successor; or
 - (D) a person similar to Subsections (7)(b)(ii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (8)
- (a) Except as provided in Subsection (8)(b) or Section 19-12-203, 59-7-522, 59-10-529, or 59-12-110, the commission may not make a credit or refund unless a person files a claim with the commission within the later of:
 - (i) three years from the due date of the return, including the period of any extension of time provided in statute for filing the return; or
 - (ii) two years from the date the tax was paid.
 - (b) The commission shall extend the time period for a person to file a claim under Subsection (8) (a) if:
 - (i) the time period described in Subsection (8)(a) has not expired; and
 - (ii) the commission and the person sign a written agreement:
 - (A) authorizing the extension; and
 - (B) providing for the length of the extension.
- (9) If the commission denies a claim for a credit or refund, a person may request a redetermination of the denial by filing a petition or request for agency action with the commission:
- (a)
 - (i) within a 30-day period after the day on which the commission mails a notice of denial for the claim for credit or refund; or
 - (ii) within a 90-day period after the day on which the commission mails a notice of denial for the claim for credit or refund, if the notice is addressed to a person outside the United States or the District of Columbia; and
 - (b) in accordance with:
 - (i) Section 59-1-501; and
 - (ii) Title 63G, Chapter 4, Administrative Procedures Act.
- (10) The action of the commission on a person's petition for redetermination of a denial of a claim for credit or refund is final 30 days after the day on which the commission sends the commission's decision or order, unless the person seeks judicial review.

Amended by Chapter 24, 2014 General Session

59-1-1411 Notice and demand.

- (1) The commission shall as soon as practicable mail notice and demand to a person who owes a liability that has been assessed but remains unpaid.
- (2)
 - (a) The notice and demand required by Subsection (1) shall:
 - (i) except as provided in Subsection (2)(b), state the amount of the liability;
 - (ii) demand payment of the liability; and
 - (iii) be mailed in accordance with Section 59-1-1404.
 - (b) For purposes of Subsection (2)(a)(i), the notice and demand shall:
 - (i) state the amount of interest and penalties that have accrued as of the date of the notice and demand; and

- (ii) include a statement that interest and penalties may continue to accrue in accordance with Sections 59-1-401 and 59-1-402.
- (3) Payment for a liability may not be demanded before the last day prescribed for payment of the liability, including an extension, unless the commission determines under Section 59-1-701 that collection of the liability would be jeopardized by delay.
- (4) Upon issuance of the notice and demand described in this section, a person that owes a liability shall pay the liability at the place and time stated in the notice and demand.

Enacted by Chapter 212, 2009 General Session

59-1-1412 Applicability of section -- Delinquent payment -- Notice to third parties.

- (1)
 - (a) Except as provided in Subsection (1)(b), this section applies to a delinquency in the payment of a liability.
 - (b) This section does not apply to a garnishment.
- (2) If a person is delinquent in the payment of a liability, the commission may mail notice of the amount of the delinquency:
 - (a) to a person that at the time of the receipt of the notice has in that person's possession, under that person's control, or owing to that person:
 - (i) a credit of the person owing the liability;
 - (ii) personal property of the person owing the liability; or
 - (iii) a debt of the person owing the liability; and
 - (b) in accordance with Section 59-1-1404.
- (3) A person to which the commission mails notice in accordance with this section shall, within 10 days after the date the commission mails the notice, advise the commission of the following in the person's possession, under the person's control, or owing to the person:
 - (a) a credit of the person owing the liability;
 - (b) personal property of the person owing the liability; or
 - (c) a debt of the person owing the liability.
- (4) A person to which the commission mails notice in accordance with this section may not transfer or make any other disposition of a credit, personal property, or debt described in Subsection (3) until the sooner of:
 - (a) the commission consents to the transfer or disposition; or
 - (b) 20 days elapse after the day on which the person provides the commission the information required by Subsection (3).

Enacted by Chapter 212, 2009 General Session

59-1-1413 Lien for a liability.

- (1) In addition to Section 40-6-14, 59-5-108, 59-5-208, 59-11-110, 59-12-112, 59-13-302, or 59-13-311, if a person that owes a liability fails to pay that liability after the commission mails notice and demand under Section 59-1-1411, the amount of liability, plus any administrative cost, is a lien in favor of the state upon all property and rights to property, whether real or personal, belonging to that person.
- (2) Unless another date is specifically established by law, the lien imposed by this section:
 - (a) arises at the time the commission makes the assessment of the tax, fee, or charge that is part of the liability; and

- (b) continues until the liability and administrative costs described in Subsection (1), or a judgment against the person arising from that liability and administrative costs:
 - (i) is satisfied; or
 - (ii) is unenforceable because the time period described in Subsection 59-1-1414(8) has elapsed.

Enacted by Chapter 212, 2009 General Session

59-1-1414 Warrant procedures -- Judgment -- Notice requirements after filing warrant.

- (1) Except as provided in Subsections (3) and (4), if a person who owes a liability fails to pay that liability within 30 days after the day on which the commission mails notice and demand under Section 59-1-1411, the commission may:
 - (a) file a warrant with the clerk of:
 - (i) except as provided in Subsection (1)(a)(ii), the district court of any county in which that person has real or personal property; or
 - (ii) if the person is not a resident of this state, the Third District Court in Salt Lake City; or
 - (b) issue a warrant in duplicate under its official seal directed to the sheriff of a county requiring the sheriff to:
 - (i) levy upon and sell the person's real and personal property for the payment of the liability, plus the cost of executing the warrant; and
 - (ii) return to the commission within 60 days:
 - (A) the warrant; and
 - (B) the money collected under the warrant.
- (2)
 - (a) A sheriff that receives a warrant under Subsection (1) shall within five days file a duplicate copy of the warrant with the clerk of the district court of the appropriate county.
 - (b)
 - (i) The sheriff shall execute the warrant in the same manner prescribed by law for an execution issued against property in accordance with a judgment by a court.
 - (ii) An execution of a warrant described in Subsection (2)(b)(i) has the same effect as an execution issued against property in accordance with a judgment by a court.
 - (iii) A sheriff that executes a warrant under Subsection (2)(b)(i) shall receive fees for the sheriff's services in executing the warrant as if the sheriff were executing a judgment by a court.
- (3) The commission may file a warrant without regard to the 30-day period provided in Subsection (1) if the commission finds that the collection of a liability that a person owes is in jeopardy.
- (4) The commission may not file a warrant under this section more than three years after the assessment of the tax, fee, or charge that is a portion of a liability.
- (5) A clerk of a district court that receives a warrant under this section shall enter in the judgment docket:
 - (a) in the column for judgment debtors, the name of the person stated in the warrant; and
 - (b) in appropriate columns:
 - (i) the amount for which the warrant is filed; and
 - (ii) the date the warrant is filed.
- (6) Notwithstanding Section 78B-5-202, the liability that serves as the basis for a warrant is a binding lien upon the real, personal, and other property of the person to the same extent as other judgments docketed in the office of the clerk of the district court.

- (7) When a warrant is filed with the clerk of a district court in accordance with this section, the commission is considered to have obtained a judgment against a person for a liability.
- (8) Notwithstanding Section 78B-5-202, a judgment described in Subsection (7) is effective for a period ending 10 years after the date the amount for which the warrant is filed is assessed in accordance with Section 59-1-1408.
- (9) The commission may not renew a judgment described in Subsection (7).
- (10) The commission may authorize an action or proceeding to collect or enforce a judgment described in Subsection (7) in any place and by any procedure that a civil judgment of the Utah Supreme Court may be collected or enforced if:
 - (a) a warrant is filed under this section against a person who is not a resident of this state; and
 - (b) the commission determines that the person does not have sufficient real or personal property in the state to pay the person's liability.
- (11) After filing a warrant under Section 59-1-1414, the commission shall follow the notice requirements of Section 38-12-102.

Enacted by Chapter 212, 2009 General Session

59-1-1415 Release of lien.

The commission may release property from a lien placed under this part:

- (1) if the commission determines that the interests of the state will not be jeopardized by the release; and
- (2) under conditions the commission may require.

Enacted by Chapter 212, 2009 General Session

59-1-1416 Transferees.

- (1)
 - (a) If a transferee is obligated at law or equity for an amount of a liability of a person that originally owes a liability, the transferee is subject to this part for the assessment, payment, and collection of the amount of the liability for which the transferee has an obligation.
 - (b) The period of limitations for an assessment against a transferee is extended:
 - (i) subject to the other provisions of this section, by one year for each successive transfer:
 - (A) in the order of transfer; and
 - (B) beginning from the person that originally owes the liability to the transferee involved; and
 - (ii) by not more than three years in the aggregate.
- (2)
 - (a) Subject to Subsection (2)(b), if before the expiration of the period of limitations for assessment against a transferee, the commission files a claim in court against the person that originally owes the liability or the last preceding transferee, based upon the liability the person originally owes, the period of limitation for assessment against the transferee may not expire before one year after the claim is finally allowed, disallowed, or otherwise disposed of.
 - (b)
 - (i) Subject to Subsection (2)(b)(ii), if before expiration of the time period described in Subsection (1)(b) or (2)(a) for an assessment against a transferee, the commission and the transferee agree in writing to an assessment after the time period described in Subsection (1)(b) or (2)(a), the commission may make an assessment against the transferee at any time before the expiration of the time period to which the commission and transferee agree in writing.

- (ii) A time period that the commission and a transferee agree upon in writing in accordance with Subsection (2)(b)(i) may be extended by written agreement:
 - (A) between the commission and the transferee; and
 - (B) made before the expiration of the time period that the commission and the transferee previously agreed upon.
- (c) An agreement described in Subsection (2)(b)(i) or an extension described in Subsection (2)(b)(ii) is considered to be an agreement or extension described in Section 59-1-1410 for purposes of determining the period of limitation on a credit or refund to a transferee of an overpayment of a liability:
 - (i) made by:
 - (A) the transferee; or
 - (B) the transferor; and
 - (ii) for which the transferee is allowed a credit or refund.
- (d) If an agreement described in Subsection (2)(b)(i) or an extension described in Subsection (2)(b)(ii) is executed after the expiration of the period of limitation for assessment against the person that originally owes a liability, the time period in which a credit or refund may be claimed shall be increased by the time period:
 - (i) beginning on the date of the expiration of the period of limitation for assessment against the person that originally owes the liability; and
 - (ii) ending on the date the agreement described in Subsection (2)(b)(i) or the extension described in Subsection (2)(b)(ii) is executed.
- (3) If the person that originally owes a liability is deceased, the period of limitation for assessment of a liability against that person is the period that would be in effect had the person lived.
- (4)
 - (a) Subject to Subsection (4)(b) and notwithstanding Section 59-1-403, the commission shall make available to a transferee information necessary to enable the transferee to determine the liability:
 - (i) of the person that originally owes the liability; or
 - (ii) a preceding transferee owes.
 - (b) The commission may not take an action under Subsection (4)(a) that imposes an undue hardship to the person that originally owes the liability or a preceding transferee.

Enacted by Chapter 212, 2009 General Session

59-1-1417 Burden of proof -- Statutory construction.

- (1) In a proceeding before the commission, the burden of proof is on the petitioner except for determining the following, in which the burden of proof is on the commission:
 - (a) whether the petitioner committed fraud with intent to evade a tax, fee, or charge;
 - (b) whether the petitioner is obligated as the transferee of property of the person that originally owes a liability or a preceding transferee, but not to show that the person that originally owes a liability is obligated for the liability; and
 - (c) whether the petitioner is liable for an increase in a deficiency if the increase is asserted initially after a notice of deficiency is mailed in accordance with Section 59-1-1405 and a petition under Part 5, Petitions for Redetermination of Deficiencies, is filed, unless the increase in the deficiency is the result of a change or correction of federal taxable income:
 - (i) required to be reported; and
 - (ii) of which the commission has no notice at the time the commission mails the notice of deficiency.

- (2) Regardless of whether a taxpayer has paid or remitted a tax, fee, or charge, the commission or a court considering a case involving the tax, fee, or charge shall:
- (a) construe a statute imposing the tax, fee, or charge strictly in favor of the taxpayer; and
 - (b) construe a statute providing an exemption from or credit against the tax, fee, or charge strictly against the taxpayer.

Amended by Chapter 424, 2012 General Session

59-1-1418 Suspension of running of statute of limitations.

- (1) The time period allowed for making an assessment or commencing a proceeding under Section 59-1-1410 shall be extended by the time period during which the commission is prohibited by law from making an assessment or commencing a proceeding for collection, plus 60 days.
- (2) The time period allowed for commencing a proceeding under Section 59-1-1410 shall be extended by the time period during which the commencement of the proceeding is stayed by injunction or statutory prohibition.

Enacted by Chapter 212, 2009 General Session

59-1-1419 Venue -- Section does not affect right to seek judicial review.

- (1) If the commission commences a proceeding relating to the following, the venue is the Third District Court in Salt Lake City:
 - (a) failure to pay a liability;
 - (b) failure to file a return; or
 - (c) failure to supply information.
- (2) Nothing in this section affects a right to seek judicial review in accordance with Part 6, Judicial Review.

Enacted by Chapter 212, 2009 General Session