

**Effective 1/1/2017**

**Part 17**  
**Depository Institution Data Match System and Levy Act**

**59-1-1701 Title.**

This part is known as the "Depository Institution Data Match System and Levy Act."

Enacted by Chapter 326, 2016 General Session

**59-1-1702 Definitions.**

As used in this part:

- (1) "Agreement" means an agreement described in Section 59-1-1704 between a depository institution and the commission.
- (2) "Delinquent taxpayer" means a person against whom the commission is considered to have obtained a judgment for a liability under Section 59-1-1414.
- (3) "Depository institution" is a depository institution described in Section 7-1-103 that holds or receives deposits, savings, or share accounts.
- (4) "Depository institution data match system" means the database that the commission develops, maintains, and operates in accordance with Section 59-1-1703.
- (5) "Identifying information" means:
  - (a) the name of the account holder;
  - (b) the social security number of the account holder; or
  - (c) other identifying information.
- (6) "Liability" means the same as that term is defined in Section 59-1-1402.
- (7) "Satisfy a liability" means to pay in full a liability that is the subject of a levy under this part.

Enacted by Chapter 326, 2016 General Session

**59-1-1703 Depository institution data match system.**

- (1) The commission shall develop, maintain, and operate a database as provided in this section.
- (2) The database described in Subsection (1):
  - (a) shall use automated data exchanges;
  - (b) shall identify a delinquent taxpayer by identifying information;
  - (c) may be accessed only by the commission or a depository institution;
  - (d) shall be used to determine whether a delinquent taxpayer identified in the database has the same identifying information as that of an account holder at a depository institution; and
  - (e) shall be updated by the commission on at least a quarterly basis.

Enacted by Chapter 326, 2016 General Session

**59-1-1704 Election to enter into an agreement.**

- (1) A depository institution that does business in this state may elect to use the depository institution data match system to respond to judicial process against a delinquent taxpayer.
- (2) A depository institution may not make an election under Subsection (1) unless the commission approves the election.
- (3) A depository institution that elects to use the depository institution data match system shall enter into an agreement with the commission.

- (4) An agreement under this section shall:
  - (a) address the operation of the depository institution data match system;
  - (b) require the depository institution to comply with this part;
  - (c) address reimbursement to the depository institution for complying with this part; and
  - (d) provide for the security and confidentiality of data contained in the depository institution data match system.
- (5) An election under this section does not preclude the commission from requiring a depository institution to respond to judicial process against a delinquent taxpayer:
  - (a) by means other than the depository institution data match system; and
  - (b) as provided by law.

Enacted by Chapter 326, 2016 General Session

**59-1-1705 Requirement to access depository institution data match system.**

- (1) A depository institution that enters into an agreement with the commission in accordance with Section 59-1-1704 shall access the depository institution data match system on or before the 15th day of each calendar quarter.
- (2) A depository institution that accesses the depository institution data match system shall determine whether a delinquent taxpayer identified in the depository institution data match system has the same identifying information as that of an account holder at the depository institution.

Enacted by Chapter 326, 2016 General Session

**59-1-1706 Requirement for a depository institution to provide information to the commission.**

A depository institution that determines under Section 59-1-1705 that a delinquent taxpayer identified in the depository institution data match system has the same identifying information as that of an account holder at the depository institution shall provide the commission, within five days after the day on which the depository institution accesses the depository institution data match system:

- (1) the name of the account holder;
- (2) the address of the account holder;
- (3) the account number of the account holder;
- (4) the account balance of the account holder on the day that the depository institution provides the commission the information required by this section;
- (5) the type of account of the account holder;
- (6) the social security number of the account holder;
- (7) other information that identifies the account holder; and
- (8) the name of, and contact information for, other account holders that have access to the account.

Enacted by Chapter 326, 2016 General Session

**59-1-1707 Commission requirement to provide notice of levy to depository institution -- Duration of levy.**

- (1) The commission shall provide, within three business days after a depository institution provides the commission information described in Section 59-1-1706, a notice of levy to the depository institution by electronic means:
  - (a) stating that the commission levies an amount equal to the liability of a delinquent taxpayer that is an account holder at the depository institution; and
  - (b) identifying the account subject to levy.
- (2) A levy described in Subsection (1) is valid until the earlier of:
  - (a) the day on which the commission releases the levy;
  - (b) the day on which the delinquent taxpayer satisfies the liability; or
  - (c) the day on which the depository institution releases, in accordance with Section 59-1-1711, the amounts deposited into the account of the delinquent taxpayer.
- (3) The commission shall provide notice to a depository institution by electronic means:
  - (a) if the commission releases a levy, no later than one business day after the day on which the commission releases the levy; or
  - (b) if a delinquent taxpayer satisfies the liability, no later than one business day after the day on which the delinquent taxpayer satisfies the liability.

Enacted by Chapter 326, 2016 General Session

**59-1-1708 Depository institution requirement to secure amount subject to levy in account holder's account.**

- (1) Subject to Subsection (2), before the later of two business days after the day on which, or 48 hours after the time at which, a depository institution receives a notice of levy described in Section 59-1-1707 from the commission, the depository institution shall secure the amount subject to levy in a delinquent taxpayer's account by prohibiting:
  - (a) any person that has access to the delinquent taxpayer's account from accessing the amount; or
  - (b) the transfer or other disposition of the amount.
- (2) For purposes of Subsection (1), a depository institution shall secure an amount subject to levy regardless of whether a person other than the delinquent taxpayer has access to the account or is an account holder.

Enacted by Chapter 326, 2016 General Session

**59-1-1709 Commission to send notice to delinquent taxpayer.**

- (1) The commission shall, within three business days after the day on which the commission provides a notice of levy described in Section 59-1-1707 to a depository institution, notify a delinquent taxpayer that the commission has issued the notice of levy to the depository institution.
- (2) The notice described in Subsection (1) shall:
  - (a) state the amount subject to levy as stated in the notice of levy described in Section 59-1-1707;
  - (b) notify the delinquent taxpayer that the depository institution is required to secure the amount subject to levy in accordance with Section 59-1-1708;
  - (c) identify each account subject to levy at the depository institution; and
  - (d) describe the actions a delinquent taxpayer may take to:
    - (i) satisfy the liability; or

- (ii) resolve an issue as to whether the commission has the authority to receive from a depository institution the amount subject to levy at the depository institution.

Enacted by Chapter 326, 2016 General Session

**59-1-1710 Commission to determine portion of an amount subject to levy -- Process for resolution of dispute -- Extension of certain time periods -- District court action -- Rulemaking authority.**

- (1) In accordance with this section, the commission, in consultation with the depository institution, shall determine the portion of the amount subject to a levy under this part.
- (2) The time period for making the determination required by Subsection (1):
  - (a) begins on the day on which the commission provides a notice of levy described in Section 59-1-1707 to a depository institution; and
  - (b) ends on the first business day after a 21-day period beginning on the day described in Subsection (2)(a).
- (3) The commission shall provide notice to a depository institution, no later than the last day of the time period described in Subsection (2), of the portion of the amount subject to a levy under this part.
- (4) The portion of an amount subject to levy under this part that the commission may receive from a depository institution may not exceed the lesser of:
  - (a) the amount of the liability that is subject to the levy;
  - (b) the amount the commission would have been able to receive had the commission obtained a writ of garnishment; or
  - (c) the balance of the delinquent taxpayer's account that a depository institution has secured or will secure in accordance with Section 59-1-1708 minus any amounts that the depository institution holds as a security interest.
- (5) As part of the determination required by Subsection (1), the commission shall allow a delinquent taxpayer to communicate with and provide information to the commission.
- (6) The commission shall order a conference between the commission and the delinquent taxpayer in accordance with Section 63G-4-102 if:
  - (a) the commission finds that there is a dispute as to an issue related to the determination required by Subsection (1); or
  - (b) a delinquent taxpayer requests the conference to address a dispute as to an issue related to the determination required by Subsection (1).
- (7) The time period beginning on the day on which the commission orders a conference in accordance with Subsection (6) and ending on the day on which the conference adjourns may not be included in calculating a time period:
  - (a) during which a levy is valid;
  - (b) during which a depository institution is required to secure an amount in accordance with Section 59-1-1708;
  - (c) for making the determination required by Subsection (1); or
  - (d) for requiring a depository institution to release a portion of an amount to the commission in accordance with Section 59-1-1711.
- (8) If a conference described in Subsection (6) does not result in the resolution of the issues related to the determination required by Subsection (1), a delinquent taxpayer may file an action in district court:
  - (a) within 14 days after the day on which a conference described in Subsection (6) adjourns; and

(b) in the district court located in the county of residence or principal place of business of the delinquent taxpayer.

- (9)
- (a) Subject to Subsection (9)(b), the time period beginning on the day on which a delinquent taxpayer files an action in accordance with Subsection (8) and ending on the day on which the action becomes final may not be included in calculating a time period:
    - (i) during which a levy is valid;
    - (ii) during which a depository institution is required to secure an amount in accordance with Section 59-1-1708;
    - (iii) for making the determination required by Subsection (1); or
    - (iv) for requiring a depository institution to release a portion of an amount to the commission in accordance with Section 59-1-1711.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining when an action under this section becomes final.

Enacted by Chapter 326, 2016 General Session

**59-1-1711 Depository institution to release portion of amount subject to levy.**

- (1) Subject to the other provisions of this section, a depository institution shall release the portion of the amount subject to a levy under this part that the commission may receive in accordance with Section 59-1-1710 from the depository institution.
- (2) On the first business day after the day on which the commission provides the notice described in Subsection 59-1-1710(3) to the depository institution, the depository institution shall release the lesser of the following:
  - (a) the portion of the amount the commission may receive in accordance with Section 59-1-1710 from the depository institution; or
  - (b) the balance of the delinquent taxpayer's account on the first business day after the day on which the commission provides the notice described in Subsection 59-1-1710(3) to the depository institution minus:
    - (i) the \$10 reimbursement to the depository institution described in Section 59-1-1713; and
    - (ii) the fees that an account holder agreed to pay the depository institution to process a writ of garnishment in a deposit agreement.

Enacted by Chapter 326, 2016 General Session

**59-1-1712 Limitations on commission authority to levy.**

- (1) During the time period that a levy the commission imposes on the account of a delinquent taxpayer is valid, the commission may not impose another levy on that account.
- (2) The commission may impose a levy in accordance with the procedures and requirements of this part on an account subject to a previous levy under this part if that previous levy is no longer valid.

Enacted by Chapter 326, 2016 General Session

**59-1-1713 Commission payment to depository institution to secure amount subject to levy.**

In addition to any compensation that the commission pays to the depository institution in accordance with an agreement, the commission shall pay the depository institution \$10 if the depository institution secures an amount subject to levy under Section 59-1-1708.

Enacted by Chapter 326, 2016 General Session

**59-1-1714 Amount levied or released in error -- Rulemaking authority.**

- (1) If the commission levies an amount in error, the commission shall:
  - (a) pay the cost of a depository institution charge incurred as a result of the levy; or
  - (b) if a person other than the commission pays the depository institution charge, reimburse the person for the depository institution charge incurred as a result of the levy.
- (2) If a depository institution releases an amount in an account holder's account to the commission in error, the commission shall return the amount to the depository institution by electronic means for deposit into the account holder's account.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing:
  - (a) what constitutes levying or releasing an amount in error; and
  - (b) the depository institution charges the commission shall pay.

Enacted by Chapter 326, 2016 General Session

**59-1-1715 Limits on a depository institution's authority to disclose or provide notice -- Depository institution authority to provide information.**

- (1) Before a depository institution secures an amount subject to levy in a delinquent taxpayer's account in accordance with Section 59-1-1708 and except as provided in Subsection (2), a depository institution may not disclose or provide notice to an account holder at the depository institution that the depository institution:
  - (a) provided information to the commission or the commission provided information to the depository institution in relation to the account holder or the account holder's account in accordance with this part; or
  - (b) took an action in relation to the account holder or the account holder's account in accordance with this part.
- (2) A depository institution may provide information to an account holder describing the depository institution's duties under this part if the information the depository institution provides does not identify that the depository institution:
  - (a) provides or has provided information to the commission in relation to a particular account holder or account holder's account in accordance with this part; or
  - (b) takes or has taken an action in relation to a particular account holder or account holder's account in accordance with this part.

Enacted by Chapter 326, 2016 General Session

**59-1-1716 Limits on depository institution liability.**

A depository institution is not liable to a person for the following if the depository institution acts in good faith:

- (1) providing or failing to provide information; or
- (2) taking or failing to take an action.

Enacted by Chapter 326, 2016 General Session

**59-1-1717 Confidentiality of information.**

Except for the exchange of information between the commission and a depository institution that is necessary to meet the requirements of this part, information the commission obtains from a depository institution is subject to Section 59-1-403 as if the information had been gained from a return filed with the commission.

Enacted by Chapter 326, 2016 General Session