

**59-1-703 Collection procedure -- Review -- Bond for stay -- Sale of seized property.**

- (1)
  - (a) If an amount that is due and payable under Sections 59-1-701 and 59-1-702 is not paid, the commission shall collect that amount in accordance with Part 14, Assessment, Collections, and Refunds Act.
  - (b)
    - (i) For purposes of collecting an amount described in Subsection (1)(a), the commission may issue a warrant.
    - (ii) The commission may direct the warrant described in Subsection (1)(b)(i) to an authorized representative of the commission.
    - (iii) In executing the warrant described in Subsection (1)(b)(i), the authorized representative described in Subsection (1)(b)(ii):
      - (A) has all of the powers conferred by law upon a sheriff; and
      - (B) may not collect a fee or other compensation for executing the warrant other than the actual expenses paid to execute the warrant.
- (2)
  - (a) The appropriateness of a termination or jeopardy assessment shall be reviewable under procedures prescribed by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
  - (b) The amount of a termination or jeopardy assessment is reviewable only in the manner prescribed in Chapter 1, Part 5, Petitions for Redetermination of Deficiencies, and Part 6, Judicial Review.
- (3) In a proceeding brought to enforce payment of a liability made due and payable under this section, Section 59-1-701, or 59-1-702, the finding of the commission, whether made after notice to the taxpayer or not, is presumptive evidence of jeopardy.
- (4)
  - (a) After a petition is filed with the commission and when the amount that the commission determines to be assessable becomes final, any unpaid portion that is stayed by bond shall be collected as part of the tax upon notice and demand from the commission.
  - (b) A portion remaining after the commission collects the amount determined to be assessable under Subsection (4)(a) shall be abated.
  - (c) If the amount the commission collects in accordance with Subsection (4)(a) exceeds the amount that should have been assessed, the excess shall be credited or refunded to the taxpayer.
  - (d) If the amount the commission determines to be assessable in accordance with Subsection (4)(a) is greater than the amount actually assessed, the difference shall be assessed, and collected as part of the tax, upon notice and demand by the commission.
- (5)
  - (a) The commission may abate a jeopardy assessment if the commission finds that jeopardy does not exist.
  - (b) An abatement described in Subsection (5)(a) may not be made after a decision of the commission in respect of the deficiency is rendered or, if no petition is filed with the commission, after the expiration of the period for filing a petition.
  - (c) The period of limitation on making an assessment or levy or a proceeding for collection, in respect of a deficiency, shall be determined as if the commission had not abated the jeopardy assessment under Subsection (5)(a).

- (d) The running of the period of limitation on making an assessment or levy or a proceeding for collection shall be suspended from the date of a jeopardy assessment until the expiration of the 10th day after the jeopardy assessment is abated under this Subsection (5).
- (6)
  - (a) The collection of all or a part of a jeopardy assessment may be stayed by posting a bond with the commission in the amount and under conditions established by the commission.
  - (b) A taxpayer may waive a stay described in Subsection (6)(a) at any time in respect of all or part of the amount covered by the bond.
  - (c) If, as a result of a waiver described in Subsection (6)(b), any part of the amount covered by the bond is paid, the commission shall proportionately reduce the bond at the request of the taxpayer that waives the stay in accordance with Subsection (6)(b).
  - (d) If any portion of a jeopardy assessment is abated, or if a notice of deficiency is mailed to a taxpayer in a lesser amount, the bond shall, at the request of the taxpayer, be proportionately reduced.
- (7)
  - (a) If a bond is posted before a taxpayer files a petition for redetermination of a deficiency under Section 59-1-501, the bond shall contain a condition that the amount of the deficiency assessment, the collection of which is stayed by the bond, shall be paid on notice and demand at any time after the expiration of the stay, together with interest on the deficiency assessment, beginning on the date of the jeopardy notice and demand and ending on the date of notice and demand under this Subsection (7)(a).
  - (b) A bond described in Subsection (7)(a) shall be conditioned upon the payment of that part of the assessment, collection of which is stayed by the bond, that is:
    - (i) not abated by a decision of the commission; and
    - (ii) final.
  - (c) If the commission determines that the amount of a deficiency assessed is greater than the amount that should have been assessed, the bond shall be proportionately reduced:
    - (i) at the time the decision of the commission is rendered; and
    - (ii) at the request of the taxpayer that posts the bond.
- (8)
  - (a) If a jeopardy assessment is made under this section, property seized for the collection of a tax may not be sold until:
    - (i) the commission issues a notice of deficiency; and
    - (ii) the time for filing a petition for redetermination expires.
  - (b) Except as provided in Subsection (8)(c), if a taxpayer files a petition for redetermination, regardless of whether the taxpayer files the petition for redetermination before or after the commission makes the jeopardy assessment, the property described in Subsection (8)(a) may not be sold until the commission's decision on the petition is final.
  - (c) For purposes of Subsection (8)(b), the property described in Subsection (8)(a) may be sold if:
    - (i) the taxpayer consents to the sale;
    - (ii) the commission determines that the expenses of conservation and maintenance of the property would greatly reduce the net proceeds of the sale; or
    - (iii) the property is perishable.

Amended by Chapter 212, 2009 General Session