

Chapter 10 Individual Income Tax Act

Part 1 Determination and Reporting of Tax Liability and Information

59-10-101 Short title.

This chapter is known as the "Individual Income Tax Act."

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-103 Definitions.

(1) As used in this chapter:

(a)

(i) "Adjusted gross income":

(A) for a resident or nonresident individual, means the same as that term is defined in Section 62, Internal Revenue Code; or

(B) for a resident or nonresident estate or trust, is as calculated in Section 67(e), Internal Revenue Code.

(ii) "Adjusted gross income" does not include:

(A) income received from a loan forgiven in accordance with 15 U.S.C. Sec. 636(a) (36), to the extent that a deduction for the expenditures paid with the loan is disallowed, or a similar paycheck protection loan that is authorized by the federal government, provided in response to COVID-19, forgiven if the borrower meets the expenditure requirements, and exempt from federal income tax, to the extent that a deduction for the expenditures paid with the loan is disallowed; or

(B) an amount that an individual receives in accordance with Section 6428, Internal Revenue Code, or an amount that an individual receives that is authorized by the federal government as a tax credit for the 2020 tax year, provided in response to COVID-19, paid in advance of the filing of the individual's 2020 federal income tax return, and exempt from federal income tax.

(b) "Corporation" includes:

(i) an association;

(ii) a joint stock company; and

(iii) an insurance company.

(c) "COVID-19" means:

(i) the severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(d) "Distributable net income" means the same as that term is defined in Section 643, Internal Revenue Code.

(e) "Employee" means the same as that term is defined in Section 59-10-401.

(f) "Employer" means the same as that term is defined in Section 59-10-401.

(g) "Federal taxable income":

(i) for a resident or nonresident individual, means taxable income as defined by Section 63, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and (b), Internal Revenue Code.

- (h) "Fiduciary" means:
 - (i) a guardian;
 - (ii) a trustee;
 - (iii) an executor;
 - (iv) an administrator;
 - (v) a receiver;
 - (vi) a conservator; or
 - (vii) any person acting in any fiduciary capacity for any individual.
- (i) "Guaranteed annuity interest" means the same as that term is defined in 26 C.F.R. Sec. 1.170A-6(c)(2).
- (j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the homesteaded land that was held to have been diminished from the Uintah and Ouray Reservation in *Hagen v. Utah*, 510 U.S. 399 (1994).
- (k) "Individual" means a natural person and includes aliens and minors.
- (l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all or part of the trust without the consent of a person who has a substantial beneficial interest in the trust and the interest would be adversely affected by the exercise of the settlor's power to revoke or terminate all or part of the trust.
- (m) "Military service" means the same as that term is defined in Pub. L. No. 108-189, Sec. 101.
- (n) "Nonresident individual" means an individual who is not a resident of this state.
- (o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a resident estate or trust.
- (p)
 - (i) "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization:
 - (A) through or by means of which any business, financial operation, or venture is carried on; and
 - (B) that is not, within the meaning of this chapter, a trust, an estate, or a corporation.
 - (ii) "Partnership" does not include any organization not included under the definition of "partnership" in Section 761, Internal Revenue Code.
 - (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or organization described in Subsection (1)(p)(i).
- (q) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.
- (r) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.
- (s) "Qualified nongrantor charitable lead trust" means a trust:
 - (i) that is irrevocable;
 - (ii) that has a trust term measured by:
 - (A) a fixed term of years; or
 - (B) the life of a person living on the day on which the trust is created;
 - (iii) under which:
 - (A) a portion of the value of the trust assets is distributed during the trust term:
 - (I) to an organization described in Section 170(c), Internal Revenue Code; and
 - (II) as a guaranteed annuity interest or a unitrust interest; and
 - (B) assets remaining in the trust at the termination of the trust term are distributed to a beneficiary:
 - (I) designated in the trust; and
 - (II) that is not an organization described in Section 170(c), Internal Revenue Code;
 - (iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue Code; and

- (v) under which the grantor of the trust is not treated as the owner of any portion of the trust for federal income tax purposes.
- (t) "Resident individual" means an individual who is domiciled in this state for any period of time during the taxable year, but only for the duration of the period during which the individual is domiciled in this state.
- (u) "Resident estate" or "resident trust" means the same as that term is defined in Section 75-7-103.
- (v) "Service member" means the same as that term is defined in Pub. L. No. 108-189, Sec. 101.
- (w) "State income tax percentage for a nonresident estate or trust" means a percentage equal to a nonresident estate's or trust's state taxable income for the taxable year divided by the nonresident estate's or trust's total adjusted gross income for that taxable year after making the adjustments required by:
 - (i) Section 59-10-202;
 - (ii) Section 59-10-207;
 - (iii) Section 59-10-209.1; or
 - (iv) Section 59-10-210.
- (x) "State income tax percentage for a nonresident individual" means a percentage equal to a nonresident individual's state taxable income for the taxable year divided by the difference between:
 - (i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross income for that taxable year, after making the:
 - (A) additions and subtractions required by Section 59-10-114; and
 - (B) adjustments required by Section 59-10-115; and
 - (ii) if the nonresident individual described in Subsection (1)(x)(i) is a service member, the compensation the service member receives for military service if the service member is serving in compliance with military orders.
- (y) "State income tax percentage for a part-year resident individual" means, for a taxable year, a fraction:
 - (i) the numerator of which is the sum of:
 - (A) subject to Section 59-10-1404.5, for the time period during the taxable year that the part-year resident individual is a resident, the part-year resident individual's total adjusted gross income for that time period, after making the:
 - (I) additions and subtractions required by Section 59-10-114; and
 - (II) adjustments required by Section 59-10-115; and
 - (B) for the time period during the taxable year that the part-year resident individual is a nonresident, an amount calculated by:
 - (I) determining the part-year resident individual's adjusted gross income for that time period, after making the:
 - (Aa) additions and subtractions required by Section 59-10-114; and
 - (Bb) adjustments required by Section 59-10-115; and
 - (II) calculating the portion of the amount determined under Subsection (1)(y)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117; and
 - (ii) the denominator of which is the difference between:
 - (A) the part-year resident individual's total adjusted gross income for that taxable year, after making the:
 - (I) additions and subtractions required by Section 59-10-114; and
 - (II) adjustments required by Section 59-10-115; and

- (B) if the part-year resident individual is a service member, any compensation the service member receives for military service during the portion of the taxable year that the service member is a nonresident if the service member is serving in compliance with military orders.
- (z) "Taxable income" or "state taxable income":
 - (i) subject to Section 59-10-1404.5, for a resident individual, means the resident individual's adjusted gross income after making the:
 - (A) additions and subtractions required by Section 59-10-114; and
 - (B) adjustments required by Section 59-10-115;
 - (ii) for a nonresident individual, is an amount calculated by:
 - (A) determining the nonresident individual's adjusted gross income for the taxable year, after making the:
 - (I) additions and subtractions required by Section 59-10-114; and
 - (II) adjustments required by Section 59-10-115; and
 - (B) calculating the portion of the amount determined under Subsection (1)(z)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;
 - (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and
 - (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.
- (aa) "Taxpayer" means any of the following that has income subject in whole or part to the tax imposed by this chapter:
 - (i) an individual;
 - (ii) an estate, a trust, or a beneficiary of an estate or a trust that is not a pass-through entity or a pass-through entity taxpayer;
 - (iii) a pass-through entity; or
 - (iv) a pass-through entity taxpayer.
- (bb) "Trust term" means a time period:
 - (i) beginning on the day on which a qualified nongrantor charitable lead trust is created; and
 - (ii) ending on the day on which the qualified nongrantor charitable lead trust described in Subsection (1)(bb)(i) terminates.
- (cc) "Uintah and Ouray Reservation" means the lands recognized as being included within the Uintah and Ouray Reservation in:
 - (i) Hagen v. Utah, 510 U.S. 399 (1994); and
 - (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).
- (dd) "Unadjusted income" means an amount equal to the difference between:
 - (i) the total income required to be reported by a resident or nonresident estate or trust on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and
 - (ii) the sum of the following:
 - (A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:
 - (I) for administering the resident or nonresident estate or trust; and
 - (II) that the resident or nonresident estate or trust deducts as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;
 - (B) the income distribution deduction that a resident or nonresident estate or trust deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;

- (C) the amount that a resident or nonresident estate or trust deducts as a deduction for estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and
 - (D) the amount that a resident or nonresident estate or trust deducts as a personal exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year.
 - (ee) "Unitrust interest" means the same as that term is defined in 26 C.F.R. Sec. 1.170A-6(c)(2).
 - (ff) "Ute tribal member" means an individual who is enrolled as a member of the Ute Indian Tribe of the Uintah and Ouray Reservation.
 - (gg) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.
 - (hh) "Wages" means the same as that term is defined in Section 59-10-401.
- (2)
- (a) Any term used in this chapter has the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required.
 - (b) Any reference to the Internal Revenue Code or to the laws of the United States shall mean the Internal Revenue Code or other provisions of the laws of the United States relating to federal income taxes that are in effect for the taxable year.
 - (c) Any reference to a specific section of the Internal Revenue Code or other provision of the laws of the United States relating to federal income taxes shall include any corresponding or comparable provisions of the Internal Revenue Code as amended, redesignated, or reenacted.

Amended by Chapter 44, 2023 General Session

59-10-103.1 Information to be contained on individual income tax returns or booklets.

- (1) The commission shall print the phrase "all state income tax dollars support education, children, and individuals with disabilities" on:
 - (a) the first page of an individual income tax return; and
 - (b) the cover page of an individual income tax forms and instructions booklet.
- (2) The commission shall include on an individual income tax return a statement for a property owner to declare that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for that property owner's primary residence.

Amended by Chapter 258, 2022 General Session

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) 4.55%.
- (3) This section does not apply to a resident individual exempt from taxation under Section 59-10-104.1.

Amended by Chapter 255, 2024 General Session

59-10-104.1 Exemption from taxation.

- (1) For purposes of this section:
 - (a) "Personal exemptions" means the total exemption amount an individual is allowed to claim for the taxable year under Section 151, Internal Revenue Code, for:
 - (i) the individual;
 - (ii) the individual's spouse; and
 - (iii) the individual's dependents.
 - (b) "Standard deduction":
 - (i) means the standard deduction an individual is allowed to claim for the taxable year under Section 63, Internal Revenue Code; and
 - (ii) notwithstanding Subsection (1)(b)(i), does not include an additional amount allowed under Section 63(f), Internal Revenue Code, for an individual or an individual's spouse who is:
 - (A) blind; or
 - (B) 65 years of age or older.
- (2) For taxable years beginning on or after January 1, 2002, an individual is exempt from a tax imposed by Section 59-10-104 or 59-10-116 if the individual's adjusted gross income on the individual's federal individual income tax return for the taxable year is less than or equal to the sum of the individual's:
 - (a) personal exemptions for that taxable year; and
 - (b) standard deduction for that taxable year.

Amended by Chapter 389, 2008 General Session

59-10-110 Disallowance of federal tax credits.

A credit applied directly to the income tax calculated for federal income tax purposes in accordance with the Internal Revenue Code may not be applied in calculating the tax due under this chapter.

Amended by Chapter 389, 2008 General Session

59-10-114 Additions to and subtractions from adjusted gross income of an individual.

- (1) There shall be added to adjusted gross income of a resident or nonresident individual:
 - (a) a lump sum distribution that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;
 - (b) the amount of a child's income calculated under Subsection (4) that:
 - (i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and
 - (ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;
 - (c)
 - (i) a withdrawal from a medical care savings account and any penalty imposed for the taxable year if:
 - (A) the resident or nonresident individual does not deduct the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;
 - (B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and
 - (C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a return the resident or nonresident individual files under this chapter;

- (ii) a disbursement required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(3); or
- (iii) an amount required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(5)(c);
- (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident individual who is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident individual who is the account owner:
 - (i) is not expended for:
 - (A) higher education costs as defined in Section 53B-8a-102.5; or
 - (B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and
 - (ii) is:
 - (A) subtracted by the resident or nonresident individual:
 - (I) who is the account owner; and
 - (II) on the resident or nonresident individual's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or
 - (B) used as the basis for the resident or nonresident individual who is the account owner to claim a tax credit under Section 59-10-1017;
- (e) except as provided in Subsection (5), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:
 - (i) issued by one or more of the following entities:
 - (A) a state other than this state;
 - (B) the District of Columbia;
 - (C) a political subdivision of a state other than this state; or
 - (D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A) through (C); and
 - (ii) to the extent the interest is not included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;
- (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);
- (g) any distribution received by a resident beneficiary of a nonresident trust of undistributed distributable net income realized by the trust on or after January 1, 2004, if that undistributed distributable net income was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state, with undistributed distributable net income considered to be distributed from the most recently accumulated undistributed distributable net income;
- (h) any adoption expense:
 - (i) for which a resident or nonresident individual receives reimbursement from another person; and
 - (ii) to the extent to which the resident or nonresident individual subtracts that adoption expense:
 - (A) on a return filed under this chapter for a taxable year beginning on or before December 31, 2007; or
 - (B) from federal taxable income on a federal individual income tax return;
- (i) the amount of tax paid on income attributed to the individual in accordance with Subsection 59-10-1403.2(2) that is not included in adjusted gross income; and

- (j) the amount of tax paid:
 - (i) on income attributed to the individual and taxable in this state, that is not included in adjusted gross income;
 - (ii) to another state; and
 - (iii) that the commission determines is substantially similar to the tax imposed under Subsection 59-10-1403.2(2).
- (2) There shall be subtracted from adjusted gross income of a resident or nonresident individual:
 - (a) the difference between:
 - (i) the interest or a dividend on an obligation or security of the United States or an authority, commission, instrumentality, or possession of the United States, to the extent that interest or dividend is:
 - (A) included in adjusted gross income for federal income tax purposes for the taxable year; and
 - (B) exempt from state income taxes under the laws of the United States; and
 - (ii) any interest on indebtedness incurred or continued to purchase or carry the obligation or security described in Subsection (2)(a)(i);
 - (b) if the conditions of Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:
 - (i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and
 - (ii) from a source within the Uintah and Ouray Reservation;
 - (c) an amount received by a resident or nonresident individual or distribution received by a resident or nonresident beneficiary of a resident trust:
 - (i) if that amount or distribution constitutes a refund of taxes imposed by:
 - (A) a state; or
 - (B) the District of Columbia; and
 - (ii) to the extent that amount or distribution is included in adjusted gross income for that taxable year on the federal individual income tax return of the resident or nonresident individual or resident or nonresident beneficiary of a resident trust;
 - (d) the amount of a railroad retirement benefit:
 - (i) paid:
 - (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;
 - (B) to a resident or nonresident individual; and
 - (C) for the taxable year; and
 - (ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year;
 - (e) an amount:
 - (i) received by an enrolled member of an American Indian tribe; and
 - (ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:
 - (A) federal law;
 - (B) a treaty; or
 - (C) a final decision issued by a court of competent jurisdiction;
 - (f) an amount received:
 - (i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;
 - (ii) by a resident or nonresident individual;
 - (iii) for the taxable year; and

- (iv) to the extent the amount is included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;
 - (g) the amount of all income, including income apportioned to another state, of a nonmilitary spouse of an active duty military member if:
 - (i) both the nonmilitary spouse and the active duty military member are nonresident individuals;
 - (ii) the active duty military member is stationed in Utah;
 - (iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec. 4001(a)(2); and
 - (iv) the income is included in adjusted gross income for federal income tax purposes for the taxable year;
 - (h) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:
 - (i) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus
 - (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year;
 - (i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; and
 - (j) an amount of a distribution from a qualified retirement plan under Section 401(a), Internal Revenue Code, if:
 - (i) the amount of the distribution is included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and
 - (ii) for the taxable year when the amount of the distribution was contributed to the qualified retirement plan, the amount of the distribution:
 - (A) was not included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and
 - (B) was taxed by another state of the United States, the District of Columbia, or a possession of the United States.
- (3)
- (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:
 - (i) the taxpayer is a Ute tribal member; and
 - (ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (3).
 - (b) The agreement described in Subsection (3)(a):
 - (i) may not:
 - (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
 - (B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(b); or
 - (C) affect the power of the state to establish rates of taxation; and
 - (ii) shall:
 - (A) provide for the implementation of the subtraction described in Subsection (2)(b);
 - (B) be in writing;
 - (C) be signed by:
 - (I) the governor; and
 - (II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c)

(i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (3) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

(4)

(a) For purposes of this Subsection (4), "Form 8814" means:

(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or

(ii)

(A) a form designated by the commission in accordance with Subsection (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and

(B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.

(b) The amount of a child's income added to adjusted gross income under Subsection (1)(b) is equal to the difference between:

(i) the lesser of:

(A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

(III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not be added to adjusted gross income of a resident or nonresident individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

- (i) the entity; or
- (ii)
 - (A) the state in which the entity is located; or
 - (B) the District of Columbia, if the entity is located within the District of Columbia.

Amended by Chapter 470, 2023 General Session

59-10-115 Adjustments to adjusted gross income.

- (1) As used in this section:
 - (a) "Net foreign source taxable income" means:
 - (i) the amount calculated on line 17 of Internal Revenue Code Form 1116, Foreign Tax Credit; or
 - (ii) if, for purposes of federal individual income taxes, the amount calculated on line 17 of Form 1116 is reported on a line other than line 17 of Form 1116, the amount on a line of a federal individual income tax form designated by the commission as being substantially similar to line 17 of the 2015 version of Form 1116.
 - (b) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.
- (2) The commission shall allow an adjustment to adjusted gross income of a resident or nonresident individual if the resident or nonresident individual would otherwise:
 - (a) receive a double tax benefit under this part; or
 - (b) suffer a double tax detriment under this part.
- (3)
 - (a) For a pass-through entity taxpayer generating taxable income primarily from establishments classified in Code Section 33242, Metal Tank (Heavy Gauge) Manufacturing, of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, an adjustment described in Subsection (2) includes net foreign source taxable income generated from Metal Tank (Heavy Gauge) Manufacturing establishments.
 - (b) The adjustment described in Subsection (3)(a) applies to a taxable year beginning on or after January 1, 2017.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
 - (a) making the designation described in Subsection (1)(a)(ii), if necessary; and
 - (b) allowing for the adjustment to adjusted gross income required by Subsection (2).

Amended by Chapter 374, 2016 General Session

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) nonresident individual's state taxable income; and
 - (b) percentage listed in Subsection 59-10-104(2).
- (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.

Amended by Chapter 252, 2022 General Session

59-10-116.1 Exemption for out-of-state employee.

- (1) As used in this section:
 - (a) "Declared state disaster or emergency" is as defined in Section 53-2a-1202.
 - (b) "Disaster period" is as defined in Section 53-2a-1202.
 - (c) "Out-of-state business" is as defined in Section 53-2a-1202.
 - (d) "Out-of-state employee" is as defined in Section 53-2a-1202.
- (2) An out-of-state employee, including a pass-through entity taxpayer who is an out-of-state employee, is exempt from a tax under this chapter for income earned or passed through:
 - (a) from an out-of-state business;
 - (b) during a disaster period; and
 - (c) as a result of the out-of-state business responding to a declared state disaster or emergency.

Enacted by Chapter 376, 2014 General Session

59-10-117 State taxable income derived from Utah sources.

- (1) For purposes of Section 59-10-116, state taxable income derived from Utah sources includes state taxable income attributable to or resulting from:
 - (a) the ownership in this state of any interest in real or tangible personal property, including real property or property rights from which gross income from mining as described by Section 613(c), Internal Revenue Code, is derived;
 - (b) the carrying on of a business, trade, profession, or occupation in this state;
 - (c) an addition to adjusted gross income required by Subsection 59-10-114(1)(c), (d), or (h) to the extent that the addition was previously subtracted from state taxable income;
 - (d) a subtraction from adjusted gross income required by Subsection 59-10-114(2)(c) for a refund described in Subsection 59-10-114(2)(c) to the extent that the refund subtracted is related to a tax imposed by this state; or
 - (e) an adjustment to adjusted gross income required by Section 59-10-115 to the extent the adjustment is related to an item described in Subsections (1)(a) through (d).
- (2) For purposes of Subsection (1):
 - (a) income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property, shall constitute income derived from Utah sources only to the extent that the income is from property employed in a trade, business, profession, or occupation carried on in this state;
 - (b) a deduction with respect to a capital loss, net long-term capital gain, or net operating loss shall be:
 - (i) based solely on income, gain, loss, and deduction connected with Utah sources, under rules prescribed by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (ii) otherwise determined in the same manner as the corresponding federal deductions;
 - (c) a salary, wage, commission, or compensation for personal services rendered:
 - (i) subject to Section 59-10-117.5, inside this state is considered to be income derived from Utah sources; and
 - (ii) outside this state may not be considered to be income derived from Utah sources;
 - (d) a share of income, gain, loss, deduction, or credit of a nonresident pass-through entity taxpayer, as defined in Section 59-10-1402, derived from or connected with Utah sources shall be determined in accordance with Section 59-10-118;

- (e) a nonresident, other than a dealer holding property primarily for sale to customers in the ordinary course of the dealer's trade or business, may not be considered to carry on a trade, business, profession, or occupation in this state solely by reason of the purchase or sale of property for the nonresident's own account;
- (f) if a trade, business, profession, or occupation is carried on partly within and partly without this state:
 - (i) an item of income, gain, loss, or a deduction derived from or connected with Utah sources shall be determined in accordance with Section 59-10-118; and
 - (ii) a salary, a wage, a commission, or compensation for personal services rendered is not considered to be an item of income from the carrying on of a business, trade, profession, or occupation;
- (g) the share of a nonresident estate or trust or a nonresident beneficiary of any estate or trust in income, gain, loss, or deduction derived from or connected with Utah sources shall be determined under Section 59-10-207; and
- (h) any dividend, interest, or distributive share of income, gain, or loss from a real estate investment trust, as defined in Section 59-7-101, distributed or allocated to a nonresident investor in the trust, including any shareholder, beneficiary, or owner of a beneficial interest in the trust, shall:
 - (i) be income from intangible personal property under Subsection (2)(a); and
 - (ii) constitute income derived from Utah sources only to the extent the nonresident investor is employing its beneficial interest in the trust in a trade, business, profession, or occupation carried on by the investor in this state.

Amended by Chapter 252, 2022 General Session

59-10-117.5 Nonresident individual wage exemption.

- (1) As used in this section:
 - (a) "Day" means any period of time during a calendar day that an individual is present in the state, unless the presence is solely for transportation through the state.
 - (b) "Wages" means income that:
 - (i) is received by an individual for employment duties performed inside this state; and
 - (ii) would be subject to withholding in accordance with Section 59-10-402 without regard to Subsection 59-10-402(5)(a).
- (2) A nonresident individual's wages may not be considered income derived from Utah sources if:
 - (a) the nonresident individual has no other income from sources within this state for the taxable year in which the nonresident individual receives the wages;
 - (b) the nonresident individual is present in this state to perform employment duties for 20 or fewer days during the tax year; and
 - (c) the nonresident individual's state of residence:
 - (i) provides a substantially similar exclusion; or
 - (ii) does not impose a state individual income tax.
- (3) This section does not apply to wages received by:
 - (a) an individual who is a professional athlete or a member of a professional athletic team;
 - (b) an individual who is a professional entertainer and who performs services in the professional performing arts;
 - (c) an individual of prominence who performs services for wages on a per-event basis;
 - (d) an individual who performs construction services to improve real property, predominantly on a construction site, as a laborer;

- (e) an individual who is a key employee, without regard to ownership or the existence of a benefit plan, for the year immediately preceding the current tax year pursuant to Subsection 416(i), Internal Revenue Code; or
- (f) an individual who is an employee of a non-corporate employer, and who would be a key employee without regard to ownership or the existence of a benefit plan, for the year immediately preceding the current tax year pursuant to Subsection 416(i), Internal Revenue Code, if:
 - (i) the term "employee" were substituted for the term "officer"; and
 - (ii) the individual is one of the non-corporate employer's 50 highest paid employees without regard to whether the individual is an officer.

Enacted by Chapter 252, 2022 General Session

59-10-118 Division of income for tax purposes.

(1) As used in this section:

- (a)
 - (i) Except as provided in Subsection (1)(a)(ii), "business income" means income arising from transactions and activity in the regular course of a taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.
 - (ii) "Business income" does not include a salary, a wage, a commission, or compensation for personal services rendered.
- (b) "Commercial domicile" means the principal place from which the trade or business of a taxpayer is directed or managed.
- (c) "Nonbusiness income" means all income other than business income.
- (d) "Sales" means all gross receipts of a taxpayer not allocated under Subsections (3) through (7).
- (e) "State" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any possession of the United States.

(2) A taxpayer having business income that is taxable both within and without this state shall allocate and apportion the taxpayer's net income as provided in this section.

(3) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that rents and royalties constitute nonbusiness income, shall be allocated as provided in Subsections (4) through (7).

- (4)
 - (a) Net rents and royalties from real property located in this state are allocable to this state.
 - (b) Net rents and royalties from tangible personal property are allocable to this state:
 - (i) if and to the extent that the property is utilized in this state; or
 - (ii) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.
 - (c)
 - (i) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year.

- (ii) If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.
- (5)
 - (a) Capital gains and losses from sales of real property located in this state are allocable to this state.
 - (b) Capital gains and losses from sales of tangible personal property are allocable to this state if:
 - (i) the property has a situs in this state at the time of the sale; or
 - (ii) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.
 - (c) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.
- (6) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.
- (7)
 - (a) Patent and copyright royalties are allocable to this state:
 - (i) if and to the extent that the patent or copyright is utilized by the payer in this state; or
 - (ii) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.
 - (b)
 - (i) A patent is utilized in a state to the extent that the patent is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state.
 - (ii) If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.
- (8) All business income shall be apportioned to this state using the same methods, procedures, and requirements of Sections 59-7-311 through 59-7-320.

Amended by Chapter 239, 2020 General Session

59-10-119 Returns by husband and wife if husband or wife is a nonresident.

- (1) If the adjusted gross income of a husband and wife who are both nonresidents of this state is reported or determined on separate federal individual income tax returns, the husband's and wife's state taxable incomes in this state shall be separately determined.
- (2) If the adjusted gross income of a husband and wife who are both nonresidents of this state is reported or determined on a joint federal individual income tax return, the husband's and wife's tax shall be reported or determined in this state on a joint return.
- (3)
 - (a) If one spouse is a nonresident of this state and the other spouse is a resident of this state, separate taxes shall be determined on each spouse's separate state taxable incomes on forms prescribed by the commission.
 - (b) Notwithstanding Subsection (3)(a), a husband and wife may elect to be considered to be residents of this state for purposes of determining state taxable income for a taxable year.
 - (c) If one spouse who is a nonresident of this state and the other spouse who is a resident of this state file a joint federal income tax return, but determine state taxable income separately, the spouses shall compute their taxable incomes in this state as if their adjusted gross incomes had been determined separately.

Amended by Chapter 389, 2008 General Session

59-10-120 Change of status as resident or nonresident.

- (1) If an individual changes the individual's status during the taxable year from resident to nonresident or from nonresident to resident, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, require the individual to file one return for the portion of the taxable year during which the individual is a resident and another return for the portion of the taxable year during which the individual is a nonresident.
- (2) The taxable income of the individual described in Subsection (1) shall be determined as provided in this chapter for residents and for nonresidents as if the individual's taxable year for federal income tax purposes were limited to the period of the individual's resident and nonresident status respectively.

Amended by Chapter 389, 2008 General Session

59-10-121 Proration when two returns required.

If an individual is required to file two returns for a taxable year under Section 59-10-120:

- (1) personal exemptions and the standard deduction as used on the federal individual income tax return shall be prorated between the two returns, under rules prescribed by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to reflect the proportions of the taxable year during which the individual was a resident and a nonresident; and
- (2) the total amount of the taxes due on the two returns may not be less than the total amount of the taxes that would be due if the total of the taxable incomes reported on the two returns had been included in one return.

Amended by Chapter 389, 2008 General Session

59-10-122 Taxable year.

- (1) For purposes of a tax imposed by this chapter, the taxable year of a resident or nonresident individual or resident or nonresident estate or trust shall be the same as the taxable year of the resident or nonresident individual or resident or nonresident estate or trust for federal income tax purposes.
- (2)
 - (a) If the taxable year of a resident or nonresident individual or resident or nonresident estate or trust is changed for federal income tax purposes, that taxable year for purposes of a tax imposed by this chapter shall be changed in the same manner as the change for federal income tax purposes.
 - (b) If a change in a taxable year results in a taxable period of less than 12 months for federal income tax purposes, that same taxable period shall be used in computing a tax imposed by this chapter.

Amended by Chapter 389, 2008 General Session

59-10-123 Accounting method.

- (1) For purposes of a tax imposed by this chapter, a resident or nonresident individual's or resident or nonresident estate's or trust's method of accounting shall be the same as the method of

accounting the resident or nonresident individual or resident or nonresident estate or trust uses for federal income tax purposes.

- (2) If a resident or nonresident individual's or resident or nonresident estate's or trust's method of accounting is changed for federal income tax purposes, the resident or nonresident individual's or resident or nonresident estate's or trust's method of accounting shall be changed in the same manner:
 - (a) for purposes of a tax imposed by this chapter; and
 - (b) for any taxable year for which the change in the method of accounting is made for federal income tax purposes.

Amended by Chapter 389, 2008 General Session

59-10-124 Adjustments between taxable years after change in accounting method.

- (1) In computing a resident or nonresident individual's or resident or nonresident estate's or trust's state taxable income for a taxable year under a method of accounting different from the method under which the resident or nonresident individual's or resident or nonresident estate's or trust's state taxable income was computed for the previous taxable year, state taxable income shall be increased or decreased:
 - (a) to prevent double inclusion or exclusion of an item of gross income as a result of the change in the method of accounting; or
 - (b) to prevent double allowance or disallowance of a subtraction from or addition to gross income as a result of the change in the method of accounting.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making an increase or decrease required by Subsection (1).

Amended by Chapter 389, 2008 General Session

59-10-125 Adjustment after change of accounting method.

- (1) If a taxpayer's method of accounting is changed, other than from an accrual to an installment method, any additional tax that results from adjustments determined to be necessary solely by reason of the change may not be greater than if those adjustments were ratably allocated and included for the taxable year of the change and the preceding taxable years, not in excess of two, during which the taxpayer used the method of accounting from which the change is made.
- (2) If a taxpayer's method of accounting is changed from an accrual to an installment method, any additional tax for the taxable year of the change in the method of accounting and for any subsequent taxable year that is attributable to the receipt of installment payments properly accrued in a prior taxable year, shall be reduced by the portion of tax for any prior taxable year attributable to the accrual of such installment payments, under rules prescribed by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 389, 2008 General Session

59-10-126 Business entities not subject to tax -- Exceptions.

- (1) A business entity that is taxable as a corporation for federal income tax purposes:
 - (a) may not be subject to the tax imposed by this chapter; and
 - (b) is subject to Chapter 7, Corporate Franchise and Income Taxes.
- (2) A business entity that is exempt from federal income taxation is exempt from the tax imposed by this chapter.

- (3) Notwithstanding Subsection (2), if a business entity that is exempt from federal income taxation has income that is subject to federal income taxation, that income is subject to taxation under Chapter 7, Corporate Franchise and Income Taxes.

Amended by Chapter 389, 2008 General Session

59-10-136 Domicile.

- (1)
- (a) An individual is considered to have domicile in this state if:
 - (i) except as provided in Subsection (1)(b), a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is enrolled in a public kindergarten, public elementary school, or public secondary school in this state;
 - (ii) the individual or the individual's spouse is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state; or
 - (iii) the individual or the individual's spouse, in that taxable year:
 - (A) votes in this state in a regular general election, municipal general election, primary election, or special election;
 - (B) has not registered to vote in another state; and
 - (C) has not voted in another state that does not require voter registration.
 - (b) The determination of whether an individual is considered to have domicile in this state may not be determined in accordance with Subsection (1)(a)(i) if the individual:
 - (i) is the noncustodial parent of a dependent:
 - (A) with respect to whom the individual claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's federal individual income tax return; and
 - (B) who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; and
 - (ii)
 - (A) is divorced from the custodial parent of the dependent described in Subsection (1)(b)(i); or
 - (B) was never married to the custodial parent of the dependent described in Subsection (1)(b)(i).
- (2)
- (a) Subject to Subsection (2)(b), if the requirements of Subsection (1) are not met for an individual to be considered to have domicile in this state, the individual is considered to have domicile in this state if:
 - (i) the individual or the individual's spouse has a permanent home in this state to which the individual or the individual's spouse intends to return after being absent; and
 - (ii) the individual or the individual's spouse has voluntarily fixed the individual's or the individual's spouse's habitation in this state, not for a special or temporary purpose, but with the intent of making a permanent home.
 - (b) The determination of whether an individual is considered to have domicile in this state under this Subsection (2) shall be based on the preponderance of the evidence, taking into consideration the totality of only the following facts and circumstances:
 - (i) whether the individual or the individual's spouse has a driver license in this state;

- (ii) whether the individual or the individual's spouse receives a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence;
 - (iii) whether a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state;
 - (iv) the nature and quality of the living accommodations that the individual or the individual's spouse has in this state as compared to another state;
 - (v) the presence in this state of a spouse or dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return;
 - (vi) the physical location in which earned income as defined in Section 32(c)(2), Internal Revenue Code, is earned by the individual or the individual's spouse;
 - (vii) the state of registration of a vehicle as defined in Section 59-12-102 owned or leased by the individual or the individual's spouse;
 - (viii) whether the individual or the individual's spouse is a member of a church, a club, or another similar organization in this state;
 - (ix) whether the individual or the individual's spouse lists an address in this state on mail, a telephone listing, a listing in an official government publication, other correspondence, or another similar item;
 - (x) whether the individual or the individual's spouse lists an address in this state on a state or federal tax return;
 - (xi) whether the individual or the individual's spouse asserts residency in this state for purposes of filing an individual income tax return under this chapter, including asserting that the individual or the individual's spouse is a part-year resident of this state for the portion of the taxable year for which the individual or the individual's spouse is a resident of this state;
 - (xii) whether the individual or the individual's spouse asserts residency in this state on a document, other than an individual income tax return filed under this chapter, filed with or provided to a court or other governmental entity;
 - (xiii) the failure of an individual or the individual's spouse to obtain a permit or license normally required of a resident of the state for which the individual or the individual's spouse asserts to have domicile;
 - (xiv) whether the individual is an individual described in Subsection (1)(b);
 - (xv) whether the individual:
 - (A) maintains a place of abode in this state; and
 - (B) spends in the aggregate 183 or more days of the taxable year in this state; or
 - (xvi) whether the individual or the individual's spouse:
 - (A) did not vote in this state in a regular general election, municipal general election, primary election, or special election during the taxable year, but voted in the state in a general election, municipal general election, primary election, or special election during any of the three taxable years prior to that taxable year; and
 - (B) has not registered to vote in another state during a taxable year described in Subsection (2)(b)(xvi)(A).
- (3) Notwithstanding Subsection (2), for individuals who are spouses for purposes of this section and one of the spouses has domicile under this section, the other spouse is not considered

to have domicile in this state under Subsection (2) if one of the spouses establishes by a preponderance of the evidence that, during the taxable year and for three taxable years prior to that taxable year, that other spouse:

- (a) is not an owner of property in this state;
 - (b) has not spent in the aggregate more than 30 days of the taxable year in this state;
 - (c) has not received earned income as defined in Section 32(c)(2), Internal Revenue Code, in this state;
 - (d) has not voted in this state in a regular general election, municipal general election, primary election, or special election; and
 - (e) does not have a driver license in this state.
- (4)
- (a) For purposes of this section, an individual is not considered to have a spouse if:
 - (i) the individual is legally separated or divorced from the spouse; or
 - (ii) the individual and the individual's spouse claim married filing separately filing status for purposes of filing a federal individual income tax return for the taxable year.
 - (b) Except as provided in Subsection (4)(a)(ii), for purposes of this section, an individual's filing status on a federal individual income tax return or a return filed under this chapter may not be considered in determining whether the individual has a spouse.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of Subsections (2)(b)(xv) and (3)(b), the commission may by rule define what constitutes spending a day of the taxable year in this state.

Amended by Chapter 248, 2024 General Session

59-10-137 Review of credits allowed under this chapter.

- (1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.
- (2)
- (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.
 - (b) In conducting the review required under Subsection (2)(a), the committee shall:
 - (i) schedule time on at least one committee agenda to conduct the review;
 - (ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;
 - (iii)
 - (A) invite the Governor's Office of Economic Opportunity to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Opportunity is required to make a report under this chapter; and
 - (B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;
 - (iv) ensure that the committee's recommendations described in this section include an evaluation of:
 - (A) the cost of the tax credit to the state;
 - (B) the purpose and effectiveness of the tax credit; and
 - (C) the extent to which the state benefits from the tax credit; and
 - (v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

- (3)
- (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:
 - (i) Section 59-10-1004;
 - (ii) Section 59-10-1010;
 - (iii) Section 59-10-1015;
 - (iv) Section 59-10-1025;
 - (v) Section 59-10-1027;
 - (vi) Section 59-10-1031;
 - (vii) Section 59-10-1032;
 - (viii) Section 59-10-1035;
 - (ix) Section 59-10-1105; and
 - (x) Section 59-10-1108.
 - (b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:
 - (i) Section 59-10-1005;
 - (ii) Section 59-10-1006;
 - (iii) Section 59-10-1012;
 - (iv) Section 59-10-1022;
 - (v) Section 59-10-1023;
 - (vi) Section 59-10-1028;
 - (vii) Section 59-10-1034;
 - (viii) Section 59-10-1037; and
 - (ix) Section 59-10-1107.
 - (c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:
 - (i) Section 59-10-1007;
 - (ii) Section 59-10-1014;
 - (iii) Section 59-10-1017;
 - (iv) Section 59-10-1018;
 - (v) Section 59-10-1019;
 - (vi) Section 59-10-1024;
 - (vii) Section 59-10-1029;
 - (viii) Section 59-10-1036;
 - (ix) Section 59-10-1106; and
 - (x) Section 59-10-1111.
 - (d)
 - (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.
 - (ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Amended by Chapter 460, 2023 General Session

Part 2 Trusts and Estates

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.
- (2) The following are not subject to a tax imposed by this part:
 - (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
 - (b) a resident trust taxed as a corporation.
- (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.
- (4) The property of the Utah Educational Savings Plan established in Title 53B, Chapter 8a, Utah Educational Savings Plan, and its income from operations and investments are exempt from all taxation by the state under this chapter.

Amended by Chapter 6, 2010 General Session

59-10-201.1 State taxable income of a resident estate or trust defined.

For a taxable year, the state taxable income of a resident estate or trust means the unadjusted income of the resident estate or trust for that taxable year, as adjusted by Sections 59-10-202, 59-10-209.1, and 59-10-210.

Amended by Chapter 389, 2008 General Session

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

- (1) There shall be added to unadjusted income of a resident or nonresident estate or trust:
 - (a) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code, in determining adjusted gross income;
 - (b) except as provided in Subsection (3), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:
 - (i) issued by one or more of the following entities:
 - (A) a state other than this state;
 - (B) the District of Columbia;
 - (C) a political subdivision of a state other than this state; or
 - (D) an agency or instrumentality of an entity described in Subsections (1)(b)(i)(A) through (C);and
 - (ii) to the extent the interest is not included in federal taxable income on the taxpayer's federal income tax return for the taxable year;
 - (c) any portion of federal taxable income for a taxable year if that federal taxable income is derived from stock:
 - (i) in an S corporation; and

- (ii) that is held by an electing small business trust;
 - (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident estate or trust that is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident estate or trust that is the account owner:
 - (i) is not expended for:
 - (A) higher education costs as defined in Section 53B-8a-102.5; or
 - (B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and
 - (ii) is:
 - (A) subtracted by the resident or nonresident estate or trust:
 - (I) that is the account owner; and
 - (II) on the resident or nonresident estate's or trust's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or
 - (B) used as the basis for the resident or nonresident estate or trust that is the account owner to claim a tax credit under Section 59-10-1017; and
 - (e) any fiduciary adjustments required by Section 59-10-210.
- (2) There shall be subtracted from unadjusted income of a resident or nonresident estate or trust:
- (a) the interest or a dividend on obligations or securities of the United States and its possessions or of any authority, commission, or instrumentality of the United States, to the extent that interest or dividend is included in gross income for federal income tax purposes for the taxable year but exempt from state income taxes under the laws of the United States, but the amount subtracted under this Subsection (2) shall be reduced by any interest on indebtedness incurred or continued to purchase or carry the obligations or securities described in this Subsection (2), and by any expenses incurred in the production of interest or dividend income described in this Subsection (2) to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income;
 - (b) income of an irrevocable resident trust if:
 - (i) the income would not be treated as state taxable income derived from Utah sources under Section 59-10-204 if received by a nonresident trust;
 - (ii) the trust first became a resident trust on or after January 1, 2004;
 - (iii) no assets of the trust were held, at any time after January 1, 2003, in another resident irrevocable trust created by the same settlor or the spouse of the same settlor;
 - (iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);
 - (v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the settlor or any other person is treated as an owner of any portion of the trust under Subtitle A, Subchapter J, Subpart E of the Internal Revenue Code; and
 - (vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on indebtedness incurred or continued to purchase or carry the assets generating the income described in this Subsection (2)(b), and by any expenses incurred in the production of income described in this Subsection (2)(b), to the extent that those expenses, including amortizable bond premiums, are deductible in determining federal taxable income;
 - (c) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or nonresident estate or trust derived from a deceased Ute tribal member:
 - (i) during a time period that the Ute tribal member resided on homesteaded land diminished from the Uintah and Ouray Reservation; and

- (ii) from a source within the Uintah and Ouray Reservation;
- (d) any amount:
 - (i) received by a resident or nonresident estate or trust;
 - (ii) that constitutes a refund of taxes imposed by:
 - (A) a state; or
 - (B) the District of Columbia; and
 - (iii) to the extent that amount is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts for that taxable year;
- (e) the amount of a railroad retirement benefit:
 - (i) paid:
 - (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;
 - (B) to a resident or nonresident estate or trust derived from a deceased resident or nonresident individual; and
 - (C) for the taxable year; and
 - (ii) to the extent that railroad retirement benefit is included in total income on that resident or nonresident estate's or trust's federal tax return for estates and trusts;
- (f) an amount:
 - (i) received by a resident or nonresident estate or trust if that amount is derived from a deceased enrolled member of an American Indian tribe; and
 - (ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:
 - (A) federal law;
 - (B) a treaty; or
 - (C) a final decision issued by a court of competent jurisdiction;
- (g) the amount that a qualified nongrantor charitable lead trust deducts under Section 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on the qualified nongrantor charitable lead trust's federal income tax return for estates and trusts for the taxable year;
- (h) any fiduciary adjustments required by Section 59-10-210;
- (i) an amount received:
 - (i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;
 - (ii) by a resident or nonresident estate or trust;
 - (iii) for the taxable year; and
 - (iv) to the extent the amount is included in federal taxable income on the taxpayer's federal income tax return for the taxable year;
- (j) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:
 - (i) the amount of any FDIC premium paid or incurred by the resident or nonresident estate or trust that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the resident's or nonresident estate's or trust's 2018 federal income tax return; plus
 - (ii) the amount of any FDIC premium paid or incurred by the resident or nonresident estate or trust that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; and
- (k) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the resident or nonresident estate or trust that is disallowed as a deduction

for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year.

- (3) Notwithstanding Subsection (1)(b), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(b)(i)(A) through (D) may not be added to unadjusted income of a resident or nonresident estate or trust if, as annually determined by the commission:
- (a) for an entity described in Subsection (1)(b)(i)(A) or (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or
 - (b) for an entity described in Subsection (1)(b)(i)(C) or (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:
 - (i) the entity; or
 - (ii)
 - (A) the state in which the entity is located; or
 - (B) the District of Columbia, if the entity is located within the District of Columbia.
- (4)
- (a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:
 - (i) the income is derived from a deceased Ute tribal member; and
 - (ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (4).
 - (b) The agreement described in Subsection (4)(a):
 - (i) may not:
 - (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
 - (B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(c); or
 - (C) affect the power of the state to establish rates of taxation; and
 - (ii) shall:
 - (A) provide for the implementation of the subtraction described in Subsection (2)(c);
 - (B) be in writing;
 - (C) be signed by:
 - (I) the governor; and
 - (II) the chair of the Business Committee of the Ute tribe;
 - (D) be conditioned on obtaining any approval required by federal law; and
 - (E) state the effective date of the agreement.
 - (c)
 - (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.
 - (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the subtraction permitted under Subsection (2)(c) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.
 - (d) For purposes of Subsection (2)(c) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
 - (i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and
 - (ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

Amended by Chapter 412, 2019 General Session

59-10-204 State taxable income of a nonresident estate or trust.

For a taxable year, the state taxable income of a nonresident estate or trust is an amount calculated by:

- (1) determining the unadjusted income of the nonresident estate or trust for that taxable year after making the adjustments required by:
 - (a) Section 59-10-202;
 - (b) Section 59-10-207;
 - (c) Section 59-10-209.1; or
 - (d) Section 59-10-210; and
- (2) calculating the portion of the amount determined under Subsection (1) that is derived from Utah sources determined in accordance with the principles of Section 59-10-117.

Amended by Chapter 389, 2008 General Session

59-10-205 Tax on nonresident estate or trust.

- (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:
 - (a) the nonresident estate's or trust's state taxable income as determined under Section 59-10-204; and
 - (b) the percentage listed in Subsection 59-10-104(2).
- (2) The following are not subject to a tax imposed by this part:
 - (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
 - (b) a nonresident trust taxed as a corporation.

Amended by Chapter 389, 2008 General Session

59-10-207 Share of a nonresident estate or trust and beneficiaries in state taxable income.

- (1) The following shall be determined as provided in this section:
 - (a) the share of a nonresident estate or trust or a nonresident beneficiary of a nonresident estate or trust in an item of income, gain, loss, or deduction that constitutes distributable net income; and
 - (b) for purposes of Section 59-10-116, the share of a nonresident beneficiary of any estate or trust in estate or trust income, gain, loss, or deduction.
- (2)
 - (a) The modifications described in Sections 59-10-202 and 59-10-210 shall be added to or subtracted from the amount of an item of income, gain, loss, or deduction that constitutes distributable net income to the extent the item relates to an item of income, gain, loss, or deduction that also constitutes distributable net income.
 - (b) A modification may not be made under this section if the modification duplicates an item already reflected in distributable net income.
- (3)
 - (a) The amount determined under Subsection (2)(a) shall be allocated among the estate or trust and the beneficiaries of the estate or trust, including a resident beneficiary, in proportion to the estate's, trust's, or beneficiary's share of distributable net income.

- (b) An amount allocated in accordance with Subsection (3)(a) has the same character as for federal income tax purposes.
- (4)
- (a) If an estate or trust does not have distributable net income for the taxable year, the share of each beneficiary in the amount determined under Subsection (2)(a) shall be in proportion to the beneficiary's share of the estate or trust income for that taxable year, under state law or the terms of the governing instrument, that is required to be distributed currently and any other amounts of that income distributed in that taxable year.
 - (b) For purposes of this Subsection (4), any balance of net income shall be allocated to the estate or trust.
- (5)
- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish one or more other methods of determining the shares of a beneficiary and of an estate or trust in:
 - (i) income derived from sources in this state; and
 - (ii) modifications related to income, gain, loss, or deduction.
 - (b) A fiduciary may elect to use a method allowed by this Subsection (5) only if the allocation of a share under Subsection (3) or (4):
 - (i) results in an inequity in the allocation; and
 - (ii) the inequity described in Subsection (5)(b)(i) is substantial:
 - (A) in amount; and
 - (B) in relation to the total amount of the modifications described in Subsection (2)(a).

Amended by Chapter 389, 2008 General Session

59-10-209.1 Adjustments to unadjusted income.

- (1) The commission shall allow an adjustment to unadjusted income of a resident or nonresident estate or trust if the resident or nonresident estate or trust would otherwise:
 - (a) receive a double tax benefit under this chapter; or
 - (b) suffer a double tax detriment under this chapter.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to allow for the adjustment to unadjusted income required by Subsection (1).

Amended by Chapter 382, 2008 General Session

Amended by Chapter 389, 2008 General Session

59-10-210 Fiduciary adjustments.

- (1) A share of the fiduciary adjustments described in Subsection (2) shall be added to or subtracted from unadjusted income:
 - (a) of:
 - (i) a resident or nonresident estate or trust; or
 - (ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and
 - (b) as provided in this section.
- (2) For purposes of Subsection (1), the fiduciary adjustments are the following amounts:
 - (a) the additions to and subtractions from unadjusted income of a resident or nonresident estate or trust required by Section 59-10-202; and
 - (b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:
 - (i) Section 59-6-102;

- (ii) Part 10, Nonrefundable Tax Credit Act;
 - (iii) Part 11, Refundable Tax Credit Act;
 - (iv) Section 59-13-202;
 - (v) Section 63N-2-213; or
 - (vi) Section 59-10-1112.
- (3)
- (a) The respective shares of an estate or trust and its beneficiaries, including for the purpose of this allocation a nonresident beneficiary, in the state fiduciary adjustments, shall be allocated in proportion to their respective shares of federal distributable net income of the estate or trust.
 - (b) If the estate or trust described in Subsection (3)(a) has no federal distributable net income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be allocated in proportion to that beneficiary's share of the estate or trust income for the taxable year that is, under state law or the governing instrument, required to be distributed currently plus any other amounts of that income distributed in that taxable year.
 - (c) After making the allocations required by Subsections (3)(a) and (b), any balance of the fiduciary adjustments shall be allocated to the estate or trust.
- (4)
- (a) The commission shall allow a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method described in Subsection (3) if using the method described in Subsection (3) results in an inequity:
 - (i) in allocating the fiduciary adjustments described in Subsection (2); and
 - (ii) if the inequity is substantial:
 - (A) in amount; and
 - (B) in relation to the total amount of the fiduciary adjustments described in Subsection (2).
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules authorizing a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method described in Subsection (3) if using the method described in Subsection (3) results in an inequity:
 - (i) in allocating the fiduciary adjustments described in Subsection (2); and
 - (ii) if the inequity is substantial:
 - (A) in amount; and
 - (B) in relation to the total amount of the fiduciary adjustments described in Subsection (2).

Amended by Chapter 247, 2019 General Session

Part 4

Withholding of Tax

59-10-401 Definitions.

For purposes of this part:

- (1) "Employee" means and includes every individual performing services for an employer, either within or without, or both within or without the state of Utah, or any individual performing services within the state of Utah, the performance of which services constitutes, establishes, and determines the relationship between the parties as that of employer and employee, and

includes offices of corporations, individuals, including elected officials, performing services for the United States Government or any agency or instrumentality thereof, or the state of Utah or any county, city, municipality, or political subdivision thereof.

- (2) "Employer" means a person or organization transacting business in or deriving any income from sources within the state of Utah for whom an individual performs or performed any services, of whatever nature, and who has control of the payment of wages for such services, or is the officer, agent, or employee of the person or organization having control of the payment of wages. It includes any officer or department of state or federal government, or any political subdivision or agency of the federal or state government, or any city organized under a charter, or any political body not a subdivision or agency of the state.
- (3) "Wages" means wages as defined in Section 3401 of the Internal Revenue Code.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-402 Requirement of withholding -- Exceptions.

- (1) As used in this section:
- (a) "Day" means any period of time during a calendar day that an individual is present in the state, unless the presence is solely for transportation through the state.
- (b) "Related entity" means:
- (i) a stockholder who is an individual, or a member of the stockholder's family as described in Section 318, Internal Revenue Code, if the stockholder and the members of the stockholder's family own, in the aggregate, at least 50% of the value of the nonresident individual's outstanding stock;
- (ii) a stockholder, or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts, or corporations own, in the aggregate, at least 50% of the value of the nonresident individual's outstanding stock; or
- (iii) a corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of the Internal Revenue Code if the taxpayer owns, directly, indirectly, beneficially, or constructively, at least 50% of the value of the corporation's outstanding stock.
- (c) "Related person" means a person that, with respect to the nonresident individual during all or any portion of the taxable year, is:
- (i) a related entity;
- (ii) a component member as defined in Subsection 1563(b), Internal Revenue Code;
- (iii) a person to or from whom there is attribution of stock ownership in accordance with Subsection 1563(e), Internal Revenue Code; or
- (iv) a person that, notwithstanding the form of organization, bears the same relationship to the nonresident individual as a person described in Subsection (1)(c)(i), (ii), or (iii).
- (2) For purposes of determining whether the ownership requirements of a related entity are satisfied, a person shall:
- (a) use the attribution rules of the Internal Revenue Code; and
- (b) include direct, indirect, beneficial, or constructive ownership.
- (3) Each employer making payment of wages shall deduct and withhold from wages an amount to be determined by a commission rule that will, as closely as possible, pay the income tax imposed by this chapter.
- (4)

- (a) Any employer described in Subsection (3) that is to do business within the state for a period not to exceed 60 days in the aggregate during any calendar year may be relieved from the requirement provided for under this part for such period by furnishing to the commission in advance a certificate so certifying.
 - (b) If an employer described in Subsection (4)(a) thereafter does business within the state for a period in excess of 60 days, that employer shall be liable for all the tax that the employer would have been required to deduct and withhold.
 - (c) Upon a showing of good cause by the employer, the commission may extend for a period of not to exceed 30 days the time during which the employer is not required to deduct and withhold the tax.
- (5)
- (a)
 - (i) An employer described in Subsection (3) may not deduct or withhold any amount from wages paid to a nonresident individual if the nonresident individual's wages are excluded from state source income in accordance with Section 59-10-117.5 without regard to Subsection 59-10-117.5(2)(a).
 - (ii) For purposes of Subsection (5)(a)(i), an employer shall calculate the number of days described in Subsection 59-10-117.5(2)(b) by including the days the nonresident employee is present in the state to perform employment duties on behalf of the employer or any related person.
 - (b) If a nonresident individual is present in this state to perform employment duties for the employer, a related person, or a combination of the employer and a related person for more than 20 days during a calendar year, the employer shall be liable for all the tax that the employer would have been required to deduct and withhold.
- (6) The exceptions described in Subsections (4)(a) and (5)(a) are from the withholding requirement described in Subsection (3), not from an individual's obligation to pay income taxes as provided in Part 1, Determination and Reporting of Tax Liability and Information.
- (7)
- (a) The amount withheld under this section shall be allowed to the recipient of the income as a credit against the tax imposed by this chapter.
 - (b) Except as provided in Subsection (7)(c), the amount withheld during any calendar year shall be allowed as a credit for the taxable year that begins in the calendar year in which the amount is withheld.
 - (c) If more than one taxable year begins in a calendar year, the withheld amount shall be allowed as a credit for the last taxable year that begins in the calendar year in which the amount is withheld.

Amended by Chapter 252, 2022 General Session

59-10-403 Circumstances under which an employer is not required to deduct and withhold a tax.

- (1) Notwithstanding any other provision of this chapter, an employer is not required to deduct and withhold any tax under this chapter upon a payment of wages to an employee:
 - (a) if there is in effect with respect to the payment a withholding exemption certificate furnished to the employer by the employee, certifying that the employee:
 - (i) incurred no liability for a tax imposed under this chapter for the employee's immediately preceding taxable year; and

- (ii) expects that the employee will not incur liability for a tax imposed under this chapter for the employee's current taxable year; or
- (b) if the employer:
 - (i) is an out-of-state business as defined in Section 53-2a-1202; and
 - (ii) pays the wages as compensation for services performed in response to a declared state disaster or emergency as defined in Section 53-2a-1202.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall provide for the coordination of this section with Section 59-10-402.

Amended by Chapter 376, 2014 General Session

59-10-404 Extension of withholding to payments other than wages.

- (1) For purposes of this part, any supplemental unemployment compensation benefit paid to an individual, and any payment of an annuity to an individual, if at the time the payment is made a request that such annuity be subject to withholding under this part is in effect, shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.
- (2) For purposes of Subsection (1), "supplemental unemployment compensation benefits" means amounts that are paid to an employee pursuant to a plan to which the employer is a party, because of an employee's involuntary separation from employment, whether or not such separation is temporary, resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, but only to the extent such benefits are includable in the employee's gross income.
- (3) For purposes of this part, any unemployment compensation benefit paid to an individual pursuant to Title 35A, Chapter 4, Employment Security Act, may be subject to withholding as provided in Section 35A-4-407.
- (4) For purposes of this section, "annuity" means any amount paid to an individual as a pension or annuity, but only to the extent that the amount is includable in the gross income of such individual.
- (5) A request that an annuity be subject to withholding under this part shall be made by the payee in writing to the person making the annuity payments. The request may be terminated by furnishing to the person making the payments a written statement of termination which shall be treated as a withholding exemption certificate for purposes of Section 59-10-403.

Amended by Chapter 375, 1997 General Session

59-10-405 Voluntary withholding agreements.

- (1) The commission may by rule provide for withholding:
 - (a) from remuneration for services performed by an employee for the employee's employer that, without regard to this section, does not constitute wages; or
 - (b) from any other type of payment with respect to which the commission finds that withholding would be appropriate under this part if the employer and the employee, or in the case of any other type of payment the person making and the person receiving the payment, agree to the withholding.
- (2) The agreement provided for in Subsection (1)(b) shall be made in a form and manner as the commission may by rule prescribe.
- (3) For purposes of this part, remuneration or other payments with respect to which an agreement provided for in Subsection (1), other than election made pursuant to Section 35A-4-407, is made shall be treated as if they were wages paid by an employer to an employee to the extent

that such remuneration is paid or other payments are made during the period for which the agreement is in effect.

Amended by Chapter 21, 1999 General Session

59-10-405.5 Definitions -- Withholding tax license requirements -- Penalty -- Application process and requirements -- Fee not required -- Bonds -- Exception.

(1) As used in this section:

(a) "Applicant" means a person that:

- (i) is required by this section to obtain a license; and
- (ii) submits an application:
 - (A) to the commission; and
 - (B) for a license under this section.

(b) "Application" means an application for a license under this section.

(c) "Fiduciary of the applicant" means a person that:

- (i) is required to collect, truthfully account for, and pay over an amount under this part for an applicant; and
- (ii)
 - (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);
 - (B) is a director of the applicant described in Subsection (1)(c)(i);
 - (C) is an employee of the applicant described in Subsection (1)(c)(i);
 - (D) is a partner of the applicant described in Subsection (1)(c)(i);
 - (E) is a trustee of the applicant described in Subsection (1)(c)(i); or
 - (F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Fiduciary of the licensee" means a person that:

- (i) is required to collect, truthfully account for, and pay over an amount under this part for a licensee; and
- (ii)
 - (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);
 - (B) is a director of the licensee described in Subsection (1)(d)(i);
 - (C) is an employee of the licensee described in Subsection (1)(d)(i);
 - (D) is a partner of the licensee described in Subsection (1)(d)(i);
 - (E) is a trustee of the licensee described in Subsection (1)(d)(i); or
 - (F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) "License" means a license under this section.

(f) "Licensee" means a person that is licensed under this section by the commission.

(2) The following persons are guilty of a criminal violation as provided in Section 59-1-401:

(a) a person that:

- (i) is required to withhold, report, or remit any amounts under this part; and
- (ii) engages in business within the state before obtaining a license under this section; or

(b) a person that:

- (i) pays wages under this part; and

- (ii) engages in business within the state before obtaining a license under this section.
- (3) The license described in Subsection (2):
 - (a) shall be granted and issued:
 - (i) by the commission in accordance with this section;
 - (ii) without a license fee; and
 - (iii) if:
 - (A) an applicant:
 - (I) states the applicant's name and address in the application; and
 - (II) provides other information in the application that the commission may require; and
 - (B) the person meets the requirements of this section to be granted a license as determined by the commission;
 - (b) may not be assigned to another person; and
 - (c) is valid:
 - (i) only for the person named on the license; and
 - (ii) until:
 - (A) the person described in Subsection (3)(c)(i):
 - (I) ceases to do business; or
 - (II) changes that person's business address; or
 - (B) the commission revokes the license.
- (4) The commission shall review an application and determine whether:
 - (a) the applicant meets the requirements of this section to be issued a license; and
 - (b) a bond is required to be posted with the commission in accordance with Subsections (5) and (6) before the applicant may be issued a license.
- (5)
 - (a) Except as provided in Subsection (5)(c), an applicant shall post a bond with the commission before the commission may issue the applicant a license if:
 - (i) a license under this section was revoked for a delinquency under this part for:
 - (A) the applicant;
 - (B) a fiduciary of the applicant; or
 - (C) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or
 - (ii) there is a delinquency in withholding, reporting, or remitting any amount under this part for:
 - (A) an applicant;
 - (B) a fiduciary of the applicant; or
 - (C) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part.
 - (b) If the commission determines it is necessary to ensure compliance with this part, the commission may require a licensee to:
 - (i) for a licensee that has not posted a bond under this section with the commission, post a bond with the commission in accordance with Subsection (6); or
 - (ii) for a licensee that has posted a bond under this section with the commission, increase the amount of the bond posted with the commission.
 - (c) The commission may waive the bond requirement described in Subsection (5)(a), if the applicant is in compliance with a payment agreement that:
 - (i) relates to the delinquency; and
 - (ii) is approved by the commission.
- (6)
 - (a) A bond required by Subsection (5) shall be:

- (i) executed by:
 - (A) for an applicant, the applicant as principal, with a corporate surety; or
 - (B) for a licensee, the licensee as principal, with a corporate surety; and
 - (ii) payable to the commission conditioned upon the faithful performance of all of the requirements of this part including:
 - (A) the withholding or remitting of any amount under this part;
 - (B) the payment of any:
 - (I) penalty as provided in Section 59-1-401; or
 - (II) interest as provided in Section 59-1-402; or
 - (C) any other obligation of the applicant or the licensee under this part.
 - (b) Except as provided in Subsection (6)(d), the commission shall calculate the amount of a bond required by Subsection (5) on the basis of:
 - (i) commission estimates of:
 - (A) for an applicant, any amounts the applicant withholds, reports, or remits under this part; or
 - (B) for a licensee, any amounts the licensee withholds, reports, or remits under this part; and
 - (ii) any amount of a delinquency described in Subsection (6)(c).
 - (c) Except as provided in Subsection (6)(d), for purposes of Subsection (6)(b)(ii):
 - (i) for an applicant, the amount of the delinquency is the sum of:
 - (A) the amount of any delinquency that served as a basis for revoking the license under this section of:
 - (I) the applicant;
 - (II) a fiduciary of the applicant; or
 - (III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or
 - (B) the amount that any of the following owe under this part:
 - (I) the applicant;
 - (II) a fiduciary of the applicant; and
 - (III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or
 - (ii) for a licensee, the amount of the delinquency is the sum of:
 - (A) the amount of any delinquency that served as a basis for revoking the license under this section of:
 - (I) the licensee;
 - (II) a fiduciary of the licensee; or
 - (III) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part; or
 - (B) the amount that any of the following owe under this part:
 - (I) the licensee;
 - (II) a fiduciary of the licensee; and
 - (III) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part.
 - (d) Notwithstanding Subsection (6)(b) or (c), a bond required by Subsection (5) may not:
 - (i) be less than \$25,000; or
 - (ii) exceed \$500,000.
- (7)
- (a) The commission shall revoke a license under this section if:
 - (i) a licensee violates any provision of this part; and
 - (ii) before the commission revokes the license the commission provides the licensee:

- (A) reasonable notice; and
- (B) a hearing.
- (b) If the commission revokes a licensee's license in accordance with Subsection (7)(a), the commission may not issue another license to that licensee until that licensee complies with the requirements of this part, including:
 - (i) paying any:
 - (A) amounts due under this part;
 - (B) penalty as provided in Section 59-1-401; or
 - (C) interest as provided in Section 59-1-402; and
 - (ii) posting a bond in accordance with Subsections (5) and (6).
- (8) An employer that has erroneously applied the exception described in Subsection 59-10-402(5)
 - (a) solely as a result of miscalculating the number of days a nonresident individual is present in this state to perform employment duties may not be assessed a penalty under this section if:
 - (a) the employer relied on a regularly maintained time and attendance system that:
 - (i) requires the employee to record, on a contemporaneous basis, the work location each day the employee is present in a state other than:
 - (A) the employee's state of residence; or
 - (B) the place where services are considered performed for purposes of Section 35A-4-204; and
 - (ii) is used by the employer to allocate the employee's wages between all taxing jurisdictions in which the employee performs employment duties;
 - (b) the employer does not maintain a time and attendance system described in Subsection (8)(a) and relied on employee travel records that the employer requires the employee to maintain and record on a regular and contemporaneous basis; or
 - (c) the employer does not maintain a time and attendance system described in Subsection (8)(a) or require the maintenance of employee records described in Subsection (8)(b) and relied on travel expense reimbursement records that the employer requires the employee to submit on a regular and contemporaneous basis.

Amended by Chapter 252, 2022 General Session

59-10-406 Collection and payment of tax -- Forms filed electronically.

- (1)
 - (a) Each employer shall, on or before the last day of April, July, October, and January, pay to the commission the amount required to be deducted and withheld from wages paid to any employee during the preceding calendar quarter under this part.
 - (b) The commission may change the time or period for making reports and payments if:
 - (i) in its opinion, the tax is in jeopardy; or
 - (ii) a different time or period will facilitate the collection and payment of the tax by the employer.
- (2)
 - (a) Each employer shall file a return, in a form the commission prescribes, with each payment of the amount deducted and withheld under this part showing:
 - (i) the total amount of wages paid to his employees;
 - (ii) the amount of federal income tax deducted and withheld;
 - (iii) the amount of tax under this part deducted and withheld; and
 - (iv) any other information the commission may require.
 - (b) The employer shall file the return described in Subsection (2)(a) in an electronic format approved by the commission.

- (3)
 - (a) Each employer shall file an annual return, in a form the commission prescribes, summarizing:
 - (i) the total compensation paid;
 - (ii) the federal income tax deducted and withheld; and
 - (iii) the state tax deducted and withheld for each employee during the calendar year.
 - (b) The return required by Subsection (3)(a) shall be filed with the commission:
 - (i) in an electronic format approved by the commission; and
 - (ii) on or before January 31 of the year following that for which the report is made.
- (4)
 - (a) Each employer shall also, in accordance with rules prescribed by the commission, provide each employee from whom state income tax has been withheld with a statement of the amounts of total compensation paid and the amounts deducted and withheld for that employee during the preceding calendar year in accordance with this part.
 - (b) The statement shall be made available to each employee described in Subsection (4)(a) on or before January 31 of the year following that for which the report is made.
- (5)
 - (a) The employer is liable to the commission for the payment of the tax required to be deducted and withheld under this part.
 - (b) If an employer pays the tax required to be deducted and withheld under this part:
 - (i) an employee of the employer is not liable for the amount of any payment described in Subsection (5)(a); and
 - (ii) the employer is not liable to any person or to any employee for the amount of any such payment described in Subsection (5)(a).
 - (c) For the purpose of making penal provisions of this title applicable, any amount deducted or required to be deducted and remitted to the commission under this part is considered to be the tax of the employer and with respect to such amounts the employer is considered to be the taxpayer.
- (6)
 - (a) Each employer that deducts and withholds any amount under this part shall hold the amount in trust for the state for the payment of the amount to the commission in the manner and at the time provided for in this part.
 - (b) So long as any delinquency continues, the state shall have a lien to secure the payment of any amounts withheld, and not remitted as provided under this section, upon all of the assets of the employer and all property owned or used by the employer in the conduct of the employer's business, including stock-in-trade, business fixtures, and equipment.
 - (c) The lien described in Subsection (6)(b) shall be prior to any lien of any kind, including existing liens for taxes.
- (7) To the extent consistent with this section, the commission may use all the provisions of this chapter relating to records, penalties, interest, deficiencies, redetermination of deficiencies, overpayments, refunds, assessments, and venue to enforce this section.
- (8)
 - (a) Subject to Subsections (8)(b) and (c), the commission shall require an employer that issues the following forms for a taxable year to file the forms with the commission in an electronic format approved by the commission:
 - (i) a federal Form W-2;
 - (ii) a federal Form 1099 filed for purposes of withholding under Section 59-10-404; or
 - (iii) a federal form substantially similar to a form described in Subsection (8)(a)(i) or (ii) if designated by the commission in accordance with Subsection (8)(d).

- (b) An employer that is required to file a form with the commission in accordance with Subsection (8)(a) shall file the form on or before January 31.
 - (c) An employer that is required to file a form with the commission in accordance with Subsection (8)(a) shall provide:
 - (i) accurate information on the form; and
 - (ii) all of the information required by the Internal Revenue Service to be contained on the form.
 - (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (8)(a), the commission may designate a federal form as being substantially similar to a form described in Subsection (8)(a)(i) or (ii) if:
 - (i) for purposes of federal individual income taxes a different federal form contains substantially similar information to a form described in Subsection (8)(a)(i) or (ii); or
 - (ii) the Internal Revenue Service replaces a form described in Subsection (8)(a)(i) or (ii) with a different federal form.
- (9)
- (a) Subject to Subsection (9)(b), a pass-through entity shall file with the commission in an electronic format approved by the commission a form designated by the commission, providing information for each final pass-through entity taxpayer of a pass-through entity that elected to pay a tax in accordance with Subsection 59-10-1403.2(2).
 - (b) The pass-through entity shall file the form described in Subsection (9)(a) on or before the last day of the pass-through entity's taxable year.

Amended by Chapter 470, 2023 General Session

59-10-407 Withholding tax prepayments.

- (1) This section does not apply to an employer filing a withholding tax return for a period under this part other than a quarterly period.
- (2)
- (a) Any employer whose withholding tax liability under Section 59-10-402 is estimated to average an amount designated by the commission by rule shall make a monthly prepayment of the amount required to be paid by Section 59-10-406 for each monthly period of each quarterly period.
 - (b) An employer that makes a monthly prepayment described in this Subsection (2) shall make the monthly prepayment as provided in this section until the commission notifies the employer in writing.
- (c)
- (i) An employer shall file a form with a monthly prepayment.
 - (ii) The commission shall prescribe and furnish the form described in Subsection (2)(c)(i).
 - (iii) An employer shall make a monthly prepayment and file the form described in Subsection (2)(c)(i) on or before the last day of the month after the end of each monthly period of each quarterly period.
- (3) In determining whether an employer's estimated withholding tax liability will average an amount that requires a monthly prepayment, the commission may consider:
- (a) a return filed pursuant to Section 59-10-406; or
 - (b) information in the commission's possession or that may come into the commission's possession.
- (4) The penalties and interest for failure to make a monthly prepayment and file the form described in Subsection (2)(c)(i) by the due date described in Subsection (2)(c)(iii) are the same as the

penalties and interest under Sections 59-1-401 and 59-1-402 relating to payment of a tax, fee, or charge or filing a return.

Amended by Chapter 33, 2009 General Session

59-10-408 Withholding rules -- Agreements with federal government.

The commission may prescribe and enforce reasonable rules necessary to carry out the provisions of Sections 59-10-401 through 59-10-407, and to make such agreements with the United States Government as it deems necessary or advisable to provide for deduction and withholding of tax from wages of federal employees in the state of Utah.

Renumbered and Amended by Chapter 2, 1987 General Session

**Part 5
Procedure and Administration**

59-10-501 Rulemaking authority -- Federal income tax return information.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to allow a taxpayer to submit specified excerpts from the taxpayer's federal income tax return rather than submitting a copy of the taxpayer's entire federal income tax return.

Amended by Chapter 212, 2009 General Session

59-10-502 Persons required to file returns.

An income tax return with respect to the tax imposed by this chapter shall be filed by:

- (1) every resident individual, estate, or trust required to file a federal income tax return for the taxable year; and
- (2) every nonresident individual, estate, or trust having federal gross income derived from sources within the state for the taxable year and required to file a federal income tax return for such taxable year.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-503 Returns by husband and wife.

- (1) A husband and wife may make a single return jointly with respect to the tax imposed by this chapter even though one of the spouses has neither gross income nor deductions, except as follows:
 - (a) No joint return shall be made if the husband and wife are not permitted to file a joint return for federal income tax purposes.
 - (b) If the federal income tax liability of husband or wife is determined on a separate return for federal income tax purposes, the income tax liability of each spouse shall be determined on a separate return under this chapter.
 - (c) If the federal income tax liabilities of husband and wife, other than a husband and wife described in Subsection (1)(b), are determined on a joint federal return, they shall file a joint return under this chapter and their tax liability shall be joint and several.

- (d) If neither spouse is required to file a federal income tax return and either or both are required to file an income tax return under this chapter, they may elect to file separate or joint returns and their tax liability shall be several or joint and several, in accordance with the election made.
- (2) If either husband or wife is a resident and the other is a nonresident, they shall file separate income tax returns in this state on such forms as may be required by the commission, in which event their tax liability shall be several. They may elect to determine their joint taxable income as if both were residents, in which event their tax liability shall be joint and several.

Amended by Chapter 324, 2010 General Session

59-10-504 Returns made by fiduciaries and receivers.

Any fiduciary or receiver required to make a return for federal income tax purposes under the provisions of Section 6012(b) of the Internal Revenue Code shall make and file the corresponding state return for state income tax purposes.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-505 Return by minor.

- (1) As used in this section, "parent" includes an individual who is entitled to the services of an individual who is a minor by reason of having parental rights and duties with respect to the individual who is a minor.
- (2) If an individual who is a minor is required to make a return under this chapter, the return shall include:
 - (a) all income attributable to the individual's personal services; and
 - (b) all other items of the individual's income.
- (3) The income of an individual who is a minor may not be included on the return of the individual's parent.
- (4) An expenditure attributable to the income of an individual who is a minor that is made by the individual or the individual's parent is considered to have been paid or incurred by the individual who is a minor.
- (5) A tax assessed against an individual who is a minor, to the extent attributable to income from personal services, if not paid by the individual, for all purposes is considered as being properly assessable against the individual's parent.

Amended by Chapter 212, 2009 General Session

59-10-507 Return by a pass-through entity.

- (1) As used in this section, "taxable year" means a year or other time period that would be a taxable year of a pass-through entity if the pass-through entity were subject to taxation under this chapter.
- (2) A pass-through entity having any income derived from or connected with Utah sources shall make a return for the taxable year in accordance with Section 59-10-514.

Amended by Chapter 367, 2021 General Session

59-10-508 Returns with respect to common trust funds.

Every bank or trust company maintaining a common trust fund shall make a return to the commission for each tax year in substantially the same form as it is required to make to the federal government.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-509 Notice of qualification as fiduciary.

Every receiver, trustee in bankruptcy, assignee for benefit of creditors, or other like fiduciary shall give the commission such notice of qualification in such capacity as the commission may by rule require.

Amended by Chapter 4, 1993 General Session

59-10-510 Return of electing small business corporation.

An electing small business corporation, as defined in Section 1371(a)(2), Internal Revenue Code, shall make a return for each taxable year, stating specifically:

- (1) the items of the electing small business corporation's gross income and the deductions allowable by Subtitle A, Internal Revenue Code;
- (2) the names and addresses of all persons owning stock in the electing small business corporation at any time during the taxable year;
- (3) the number of shares of stock owned by each shareholder at all times during the taxable year to each shareholder;
- (4) the date of each distribution to a shareholder; and
- (5) other information as the commission may prescribe by:
 - (a) form; or
 - (b) administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 212, 2009 General Session

59-10-511 Statement of tax withheld.

For requirement that an employer furnish an employee a statement of tax withheld, see Section 59-10-406.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-512 Signing of returns and other documents.

- (1) Except as otherwise provided by Subsection (2), any return, statement, or other document required to be made under any provision of this chapter shall be signed in accordance with forms or rules prescribed by the commission.
- (2) The return of a partnership made under Section 59-10-507 shall be signed by any one of the partners. The fact that a partner's name is signed on the return shall be prima facie evidence that such partner is authorized to sign the return on behalf of the partnership.
- (3) The fact that an individual's name is signed on a return, statement, or other document shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

Amended by Chapter 4, 1993 General Session

59-10-513 Verifications of returns.

Except as the commission shall otherwise provide by rule, any return, declaration, statement, or other document required to be made under any provision of this chapter, or under rules promulgated hereunder, shall contain or be verified by a written declaration that it is made under the penalties of perjury.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-514 Return filing requirements -- Rulemaking authority.

- (1)
- (a) Subject to Subsection (3) and Section 59-10-518:
 - (i) an individual income tax return filed for a tax imposed in accordance with Part 1, Determination and Reporting of Tax Liability and Information, shall be filed with the commission on or before the day on which a federal individual income tax return is due;
 - (ii) a fiduciary income tax return filed for a tax imposed in accordance with Part 2, Trusts and Estates, shall be filed with the commission on or before the day on which a federal return for estates and trusts is due; or
 - (iii) a return filed in accordance with Section 59-10-507 shall be filed with the commission on or before the later of:
 - (A) the 15th day of the fourth month following the last day of the taxpayer's taxable year; or
 - (B) the day on which the taxpayer is required to file a federal income tax return.
 - (b) Interest accrues from the day on which a return is due under this Subsection (1).
- (2) A person required to make and file a return under this chapter shall, without assessment, notice, or demand, pay any tax due:
- (a) to the commission; and
 - (b) before the due date for filing the return, without regard to any extension of time for filing the return.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing what constitutes filing a return with the commission.

Amended by Chapter 367, 2021 General Session

59-10-514.1 Definitions -- Requirement to file returns by electronic means -- Exceptions -- Waiver.

- (1) As used in this section:
- (a) "Electronic" is as defined in Section 59-12-102.
 - (b)
 - (i) Except as provided in Subsection (1)(b)(ii), "income tax return preparer" means an individual that prepares for compensation a return required to be filed by this chapter.
 - (ii) "Income tax return preparer" does not include an individual who:
 - (A) performs only one or more of the following relating to a return required to be filed by this chapter:
 - (I) types the return;
 - (II) reproduces the return; or
 - (III) performs an action similar to Subsection (1)(b)(ii)(A)(I) or (II) as determined by the commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

- (B) prepares a return required to be filed by this chapter:
 - (I) of the individual's employer or an officer or employee of the employer if the individual is regularly and continuously employed by that employer;
 - (II) of any person if that individual is a fiduciary for that person; or
 - (III) for a taxpayer in response to a tax order issued to that taxpayer.
- (c) "Prepare" means to prepare a substantial portion or more of a return required to be filed by this chapter.
- (d)
 - (i) Except as provided in Subsection (1)(d)(ii), "qualifying return" means a return required to be filed by this chapter for any taxable year that begins on or after the January 1 described in Subsection (2)(c)(i).
 - (ii) "Qualifying return" does not include:
 - (A) an amended return; or
 - (B)
 - (I) a return filed for any taxable year that begins before the first day of the current taxable year; and
 - (II) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "current taxable year".
- (2)
 - (a) Subject to Subsections (2)(b) and (c) and except as provided in Subsection (3), an income tax return preparer shall file all qualifying returns by electronic means if the income tax return preparer prepares in any calendar year beginning on or after January 1, 2005, a total of 101 or more returns required to be filed by this chapter.
 - (b)
 - (i) For purposes of Subsection (2)(a), if two or more income tax return preparers are affiliated with the same establishment, the total number of returns required to be filed by this chapter that are prepared in a calendar year beginning on or after January 1, 2005, by all of the income tax return preparers that are affiliated with that establishment shall be included in determining whether an income tax return preparer prepares in a calendar year beginning on or after January 1, 2005, a total of 101 or more returns required to be filed by this chapter.
 - (ii) For purposes of Subsection (2)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule determine the circumstances under which two or more income tax return preparers are affiliated with the same establishment.
 - (c) If an income tax return preparer is required by this Subsection (2) to file all qualifying returns by electronic means, the income tax return preparer shall file those qualifying returns by electronic means:
 - (i) beginning on January 1 of the first calendar year immediately following the day on which the income tax return preparer meets the requirements of this Subsection (2); and
 - (ii) for all calendar years after the calendar year described in Subsection (2)(c)(i).
- (3) An income tax return preparer is not required to file a qualifying return by electronic means if:
 - (a) a schedule required to be attached to the qualifying return cannot be filed by electronic means;
 - (b) the taxpayer for which the qualifying return is prepared requests in writing that the income tax return preparer not file the qualifying return by electronic means; or

- (c) subject to Subsection (4), the commission waives for one or more qualifying returns filed by the income tax return preparer the requirement imposed by this section to file the qualifying returns by electronic means.
- (4)
 - (a) For purposes of Subsection (3)(c), the commission may waive for one or more qualifying returns filed by an income tax return preparer the requirement imposed by this section to file the qualifying returns by electronic means if the income tax return preparer demonstrates to the commission that it would be an undue hardship to file the qualifying returns by electronic means.
 - (b) For purposes of Subsection (4)(a) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule define the circumstances that constitute an undue hardship to file a qualifying return by electronic means.

Amended by Chapter 201, 2010 General Session

59-10-515 Place and time for filing other documents.

The commission by rule shall fix the place and time for filing other documents.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-516 Filing extension -- Payment of tax -- Penalty -- Foreign residency.

- (1)
 - (a) The commission shall allow a taxpayer an extension of time for filing a return.
 - (b) Except as provided in Subsection (1)(c):
 - (i) for a return filed by a taxpayer except for a partnership, the extension described in Subsection (1)(a) may be up to six months; and
 - (ii) for a return filed by a partnership, the extension described in Subsection (1)(a) may be up to five months.
 - (c) For a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, a taxpayer may receive an extension described in Subsection (1)(a) for the time period that ends on the last day of the extension to file the taxpayer's federal income tax return.
- (2) The commission may not impose a penalty under Section 59-1-401 during the extension period described in Subsection (1) on:
 - (a) a pass-through entity, if the pass-through entity, on or before the return due date described in Section 59-10-514, pays or withholds the tax on behalf of a pass-through entity taxpayer; or
 - (b) a taxpayer other than a taxpayer described in Subsection (2)(a), if the taxpayer pays, on or before the return due date described in Section 59-10-514, an amount equal to the lesser of:
 - (i) 90% of the total tax reported on the return for the current taxable year; or
 - (ii) 100% of the total tax liability for the taxable year immediately preceding the current taxable year.
- (3) If a taxpayer fails to meet the requirements of Subsection (2), the commission may apply to the total balance due a penalty as provided in Section 59-1-401.
- (4) If a federal income tax return filing is lawfully delayed pending a determination of qualification for a federal tax exemption due to residency outside of the United States, a taxpayer shall file a return within 30 days after that determination is made.

Amended by Chapter 367, 2021 General Session

59-10-517 Timely mailing treated as timely filing and paying.

- (1)
 - (a) If any return, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under authority of any provision of this chapter is, after such period or such date, delivered by United States mail to the agency, officer, or office with which such return, claim, statement, or other document is required to be filed, or to which such payment is required to be made, the date of the United States postmark stamped on the cover in which such return, claim, statement, or other document, or payment, is mailed shall be deemed to be the date of delivery or the date of payment, as the case may be.
 - (b) Subsection (1)(a) shall apply only if:
 - (i) the postmark date falls within the prescribed period or on or before the prescribed date:
 - (A) for the filing (including any extension granted for such filing) of the return, claim, statement, or other document; or
 - (B) for making the payment (including any extension granted for making such payment); and
 - (ii) the return, claim, statement, or other document, or payment, was, within the time prescribed in Subsection (1)(b)(i), deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the agency, officer, or office with which the return, claim, statement, or other document is required to be filed, or to which such payment is required to be made.
- (2) This section shall apply in the case of postmarks not made by the United States post office only if and to the extent provided by rules prescribed by the commission.
- (3)
 - (a) For purposes of this section, if any such return, claim, statement, or other document, or payment, is sent by United States registered mail:
 - (i) such registration shall be prima facie evidence that the return, claim, statement, or other document was delivered to the agency, officer, or office to which addressed; and
 - (ii) the date of registration shall be deemed the postmark date.
 - (b) The commission may provide by rule the extent to which the provisions of Subsection (3)(a) with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail.
- (4) This section does not apply with respect to currency or other medium of payment unless actually received and accounted for.
- (5)
 - (a) If any deposit required to be made on or before a prescribed date is, after such date, delivered by the United States mail to the commission, such deposit shall be deemed received by the commission on the date the deposit was mailed.
 - (b) Subsection (5)(a) applies only if the person required to make the deposit establishes that:
 - (i) the date of mailing falls on or before the second day before the prescribed date for making the deposit (including any extension of time granted for making the deposit); and
 - (ii) the deposit was, on or before such second day, mailed in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the commission.

Amended by Chapter 324, 2010 General Session

59-10-518 Time for performance of acts when last day falls on Saturday, Sunday, or legal holiday.

- (1) As used in this section, "legal holiday" means a legal holiday in this state.
- (2) If the last day prescribed under authority of this chapter for performing any act falls on Saturday, Sunday, or a legal holiday, the performance of the act shall be considered to be timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday.
- (3) For purposes of this section, the last day for the performance of any act shall be determined by including any authorized extension of time.

Amended by Chapter 87, 2016 General Session

59-10-519 Place for filing returns or other documents.

When not otherwise provided for by this chapter, the commission shall by rule prescribe the place for the filing of any return, statement, or other documents, or copies thereof, required by this chapter or rules.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-520 Time and place for paying tax shown on returns.

- (1) When a return of tax is required under this chapter or rules, the person required to make such return shall, without assessment or notice and demand from the commission, pay such tax to the commission office with which the return is filed, and shall pay such tax at the time and place fixed for filing the return (determined without regard to any extension of time).
- (2) In any case where a tax is required to be paid on or before a certain date, or within a certain period, any reference in this chapter to the date fixed for payment of such tax shall be deemed a reference to the last day fixed for such payment (determined without regard to any extension of time for paying the tax).

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-522 Extension of time for paying tax.

- (1)
 - (a) For a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, a taxpayer shall receive an extension of time for the payment of the amount determined as the tax of the taxpayer, or any part of that amount, for the time period that ends on the last day of the extension to pay the taxpayer's federal income tax.
 - (b)
 - (i) For a taxable year beginning on or after January 1, 2020, the commission, except as otherwise provided by this chapter, may extend the time for payment of the amount shown, or required to be shown, on any return required under authority of this chapter (or any installment thereof), for a reasonable period not to exceed six months from the date fixed for payment thereof.
 - (ii) The extension may exceed six months in the cases of taxpayers who are outside the states of the union and the District of Columbia.
- (2)
 - (a) Under rules prescribed by the commission, the time for payment of the amount determined as a deficiency may be extended for a period not to exceed 18 months from the date fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed 12 months.

- (b) An extension under this subsection may be granted only where it is shown to the satisfaction of the commission that the payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer.
 - (c) No extension may be granted if the deficiency is due to negligence, to intentional disregard of rules, or to fraud with intent to evade tax.
- (3) An extension of time for payment of any portion of a claim for an unpaid tax under this chapter, allowed in bankruptcy or receivership proceedings, may be had in the same manner and subject to the same provisions and limitations as provided in Subsection (2).

Amended by Chapter 367, 2021 General Session

59-10-527 Assessment authority.

- (1) The commission shall make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this chapter or former chapters imposing income taxes.
- (2) The assessment shall be made by recording the liability of the taxpayer in the office of the commission in accordance with rules prescribed by the commission. The commission may, at any time within the period prescribed for assessment, make a supplemental assessment if it is ascertained that any assessment is imperfect or incomplete in any material respect.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-529 Overpayment of tax -- Credits -- Refunds.

- (1) If there has been an overpayment of any tax imposed by this chapter, the amount of overpayment is credited as follows:
 - (a) against an income tax due from a taxpayer;
 - (b) against:
 - (i) the amount of a judgment against a taxpayer, including a final judgment or order requiring payment of a fine or of restitution to a victim under Title 77, Chapter 38b, Crime Victims Restitution Act, obtained through due process of law by an entity of state or local government; or
 - (ii) subject to Subsection (4)(a)(i), a child support obligation that is due or past due, as determined by the Office of Recovery Services in the Department of Health and Human Services and after notice and an opportunity for an adjudicative proceeding, as provided in Subsection (4)(a)(iii); or
 - (c) subject to Subsections (3), (5), (6), and (7), as bail to ensure the appearance of a taxpayer before the appropriate authority to resolve an outstanding warrant against the taxpayer for which bail is due, if a court of competent jurisdiction has not approved an alternative form of payment.
- (2) If a balance remains after an overpayment is credited in accordance with Subsection (1), the balance shall be refunded to the taxpayer.
- (3) Bail described in Subsection (1)(c) may be applied to any fine or forfeiture:
 - (a) that is due and related to a warrant that is outstanding on or after February 16, 1984; and
 - (b) in accordance with Subsections (5) and (6).
- (4)
 - (a) The amount of an overpayment may be credited against an obligation described in Subsection (1)(b)(ii) if the Office of Recovery Services has sent written notice to the taxpayer's last-known address or the address on file under Section 26B-9-207, stating:

- (i) the amount of child support that is due or past due as of the date of the notice or other specified date;
 - (ii) that any overpayment shall be applied to reduce the amount of due or past-due child support specified in the notice; and
 - (iii) that the taxpayer may contest the amount of past-due child support specified in the notice by filing a written request for an adjudicative proceeding with the office within 15 days of the notice being sent.
- (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of Recovery Services shall establish rules to implement this Subsection (4), including procedures, in accordance with the other provisions of this section, to ensure:
- (i) prompt reimbursement to a taxpayer of any amount of an overpayment that was credited against a child support obligation in error; and
 - (ii) prompt distribution of properly credited funds to the obligee parent.
- (5) The amount of an overpayment may be credited against bail described in Subsection (1)(c) if:
- (a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail, appear, or otherwise satisfy the terms of a citation, summons, or court order; and
 - (b) a notice of intent to apply the overpayment as bail on the issued warrant has been sent to the taxpayer's current address on file with the commission.
- (6)
- (a)
 - (i) The commission shall deliver an overpayment applied as bail to the court that issued the warrant of arrest.
 - (ii) The clerk of the court is authorized to endorse the check or commission warrant of payment on behalf of the payees and deposit the money in the court treasury.
 - (b)
 - (i) The court receiving an overpayment applied as bail shall order withdrawal of the warrant for arrest of the taxpayer if:
 - (A) the case is a case for which a personal appearance of the taxpayer is not required; and
 - (B) the dollar amount of the overpayment represents the full dollar amount of bail.
 - (ii) In a case except for a case described in Subsection (6)(b)(i):
 - (A) the court receiving the overpayment applied as bail is not required to order the withdrawal of the warrant of arrest of the taxpayer during the 40-day period; and
 - (B) the taxpayer may be arrested on the warrant.
 - (c)
 - (i) If a taxpayer fails to respond to the notice required by Subsection (5)(b), or to resolve the warrant within 40 days after the notice is sent under Subsection (5)(b), the overpayment applied as bail is forfeited.
 - (ii) A court may issue another warrant or allow the original warrant to remain in force if:
 - (A) the taxpayer has not complied with an order of the court;
 - (B) the taxpayer has failed to appear and respond to a criminal charge for which a personal appearance is required; or
 - (C) the taxpayer has paid partial but not full bail in a case for which a personal appearance is not required.
 - (d) If the alleged violations named in a warrant are later resolved in favor of the taxpayer, the bail amount shall be remitted to the taxpayer.
- (7) The fine and bail forfeiture provisions of this section apply to all warrants, fines, fees, and surcharges issued in cases charging a taxpayer with a felony, a misdemeanor, or an infraction described in this section, which are outstanding on or after February 16, 1984.

- (8) If the amount allowed as a credit for tax withheld from a taxpayer exceeds the tax to which the credit relates, the excess is considered an overpayment.
- (9)
- (a) Subject to Subsection (9)(b), a taxpayer shall claim a credit or refund of an overpayment that is attributable to a net operating loss carry back or carry forward within three years after the day on which the return for the taxable year of the net operating loss is due.
 - (b) The three-year period described in Subsection (9)(a) shall be extended by any extension of time provided in statute for filing the return described in Subsection (9)(a).
- (10) If there is no tax liability for a period in which an amount is paid under this chapter, the amount is an overpayment.
- (11) If a tax under this chapter is assessed or collected after the expiration of the applicable period of limitation, that amount is an overpayment.
- (12)
- (a) A taxpayer may file a claim for a credit or refund of an overpayment within two years after the day on which a notice of change, notice of correction, or amended return is required to be filed with the commission if the taxpayer is required to:
 - (i) report a change or correction in income reported on the taxpayer's federal income tax return;
 - (ii) report a change or correction that is treated in the same manner as if the change or correction were an overpayment for federal income tax purposes; or
 - (iii) file an amended return with the commission.
 - (b) If a report or amended return is not filed within 90 days after the day on which the report or amended return is due, interest on any resulting refund or credit ceases to accrue after the 90-day period.
 - (c) The amount of the credit or refund may not exceed the amount of the reduction in tax attributable to the federal change, correction, or items amended on the taxpayer's amended federal income tax return.
 - (d) Except as provided in Subsection (12)(a), this Subsection (12) does not affect the amount or the time within which a claim for credit or refund may be filed.
- (13) A credit or refund may not be allowed or made if an overpayment is less than \$1.
- (14) In the case of an overpayment of tax by an employer under Part 4, Withholding of Tax, an employer shall receive a refund or credit only to the extent that the amount of the overpayment is not deducted and withheld from wages under this chapter.
- (15)
- (a) If a taxpayer that is allowed a refund under this chapter dies, the commission may make payment to the personal representative of the taxpayer's estate.
 - (b) If there is no personal representative of the taxpayer's estate, the commission may make payment to those persons that establish entitlement to inherit the property of the decedent in the proportions established in Title 75, Utah Uniform Probate Code.
- (16) If an overpayment relates to a change in net income described in Subsection 59-10-536(2)
- (a), a credit may be allowed or a refund paid any time before the expiration of the period within which a deficiency may be assessed.
- (17) An overpayment of a tax imposed by this chapter shall accrue interest at the rate and in the manner prescribed in Section 59-1-402.
- (18) A pass-through entity may claim a refund of qualifying excess withholding in accordance with Section 59-10-1403.3 in lieu of a pass-through entity taxpayer claiming a tax credit under Section 59-7-614.4 or Section 59-10-1103.

Amended by Chapter 329, 2023 General Session

59-10-529.1 Time period for commission to issue a refund.

- (1) Except as provided in Subsection (2), the commission may not issue a refund before March 1.
- (2) The commission may issue a refund before March 1 if, before March 1, the commission determines that:
 - (a) an employer has filed the one or more forms in accordance with Subsection 59-10-406(8) the employer is required to file with respect to an individual; and
 - (b) the individual has filed a return in accordance with this chapter.

Enacted by Chapter 369, 2015 General Session

59-10-531 Claims for refund or credit.

A taxpayer that claims to be allowed a refund or credit under Section 59-10-529 may file a claim for the refund or credit with the commission within the time provided in Section 59-10-529.

Amended by Chapter 212, 2009 General Session

59-10-536 Assessment and collection of tax -- Change on federal income tax return -- Taxpayer requirement to make certain filings with the commission.

- (1)
 - (a) If, before the expiration of the time prescribed in this section for the assessment of a tax, the commission and the taxpayer agree in writing to the assessment of the tax in a time period after the time period prescribed in this section for the assessment of a tax, the tax may be assessed at any time before the expiration of the period to which the commission and the taxpayer agree.
 - (b) A time period that the commission and a taxpayer agree upon under Subsection (1)(a) may be extended by written agreement:
 - (i) between the commission and the taxpayer; and
 - (ii) made before the expiration of the time period that the commission and the taxpayer previously agreed upon.
- (2)
 - (a)
 - (i) Except as provided in Subsection (2)(a)(iii), if a change is made in a taxpayer's net income on the taxpayer's federal income tax return because of an action by the federal government, the taxpayer shall file with the commission within 90 days after the date there is a final determination of the action:
 - (A) a copy of the taxpayer's amended federal income tax return; and
 - (B) an amended state income tax return that conforms with the changes made in the taxpayer's amended federal income tax return.
 - (ii) Except as provided in Subsection (2)(a)(iii), if a change is made in a taxpayer's net income on the taxpayer's federal income tax return because the taxpayer files an amended federal income tax return, the taxpayer shall file with the commission within 90 days after the date the taxpayer files the amended federal income tax return:
 - (A) a copy of the taxpayer's amended federal income tax return; and
 - (B) an amended state income tax return that conforms with the changes made in the taxpayer's amended federal income tax return.
 - (iii) A taxpayer is not required to file a return described in Subsection (2)(a)(i) or (ii) if a change in the taxpayer's federal income tax return does not increase state tax liability.

- (b)
 - (i) Subject to Subsection (2)(b)(iii), the commission may assess a deficiency in state income taxes within three years after a notification or amended federal income tax return described in Subsection (2)(a) is filed.
 - (ii) The amount of an assessment of tax under this Subsection (2)(b) may not exceed the amount of the increase in Utah tax attributable to the change described in Subsection (2)(a).
 - (iii) If a taxpayer fails to report to the commission a change specified in this Subsection (2)(b), the assessment may be made at any time within six years after the date of the change.
- (3) If a deficiency in federal income tax required to be reported is attributable to a net operating loss carry back or carry forward, a deficiency in the tax imposed by this chapter may be assessed within three years from the due date of the return for the taxable year of the net operating loss.
- (4) Except as provided in Subsections (1) through (3), this section does not affect the time within which or the amount for which an assessment may otherwise be made.
- (5)
 - (a) An erroneous refund shall be considered an underpayment of tax on the date the commission makes the erroneous refund.
 - (b) An assessment of a deficiency arising out of an erroneous refund may be made at any time within three years from the date the refund is made, except that an assessment may be made within five years from the time the refund is made if any part of the refund is induced by fraud or misrepresentation of a material fact.
- (6)
 - (a) Subject to Subsection (6)(b), if a return is required for a decedent or for the decedent's estate during the period of administration, the tax shall be assessed within 18 months after written request for the assessment:
 - (i) made after the return is filed; and
 - (ii) by:
 - (A) the personal representative; or
 - (B) another person representing the estate of the decedent.
 - (b) Except as otherwise provided in this section, the assessment described in Subsection (6)(a) may not be made more than three years after the time the return is filed.
- (7)
 - (a) The amount of a tax imposed by this chapter may be assessed at any time within six years after the time the return is filed if:
 - (i) a resident individual, resident estate, or resident trust omits from gross income as reported for federal income tax purposes an amount properly includable in adjusted gross income, which is in excess of 25% of the amount of gross income stated in the return; or
 - (ii) a nonresident individual, nonresident estate, or nonresident trust omits from gross income as reported for federal income tax purposes an amount of adjusted gross income derived from Utah sources determined in accordance with Section 59-10-117, properly includable in adjusted gross income, that is in excess of 25% of the amount of adjusted gross income derived from Utah sources which is reflected in the return.
 - (b) For purposes of Subsection (7)(a)(ii), there may not be taken into account any amount that is omitted in the return if the amount is disclosed:
 - (i)
 - (A) in the return; or
 - (B) in a statement attached to the return; and
 - (ii) in a manner adequate to apprise the commission of the nature and amount of the item.

Amended by Chapter 53, 2011 General Session

59-10-537 Interest on underpayment, nonpayment, or extension of time for payment of tax.

- (1)
 - (a) Subject to the other provisions of this section, if any amount of income tax is not paid on or before the last date prescribed in this chapter for payment, interest on the amount at the rate and in the manner prescribed in Section 59-1-402 shall be paid.
 - (b) Interest under this Subsection (1) may not be paid if the amount of the interest is less than \$1.
 - (c) If the time for filing of a return of tax withheld by an employer is extended, the employer shall pay interest for the period for which the extension is granted and may not charge such interest to the employee.
- (2) If a deficiency or any interest or additional amount assessed in connection with an amount under Subsection (1), or a penalty in case of a delinquency provided for in Section 59-10-539 is not paid in full within 10 days from the date of notice and demand from the commission, there shall be collected as part of the tax, interest at the rate and in the manner prescribed in Section 59-1-402 from the date of the notice and demand until the entire amount of the deficiency, interest, and additional amount is paid.
- (3) If the time for payment of the amount determined as the tax by the taxpayer is extended under the authority of Section 59-10-522, interest shall be collected as a part of the amount at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 212, 2009 General Session

59-10-538 Interest on overpayments.

- (1) Interest shall be allowed and paid upon any overpayment in respect of any tax imposed by this chapter, at the rate and in the manner prescribed in Section 59-1-402.
- (2) For purposes of this section, if any overpayment of tax imposed by this chapter results from a carryback of a net operating loss, such overpayment shall be deemed not to have been made prior to the close of the taxable year of the net operating loss which results in such carryback.

Amended by Chapter 1, 1993 Special Session 2

Amended by Chapter 1, 1993 Special Session 2

59-10-539 Penalties and interest.

- (1)
 - (a) In case of failure to file an income tax return and pay the tax required under this chapter on or before the date prescribed for paying the tax, including extensions, unless it is shown that the failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on the return a penalty as provided in Section 59-1-401.
 - (b) For purposes of Subsection (1)(a), the amount of tax required to be shown on a return shall be reduced by:
 - (i) the amount of any part of the tax that is paid on or before the date prescribed for payment of the tax; and
 - (ii) the amount of any credit against the tax that may be claimed upon the return.
- (2) If any part of any deficiency in a tax imposed by this chapter is due to negligence or intentional disregard of rules, but without intent to defraud, a penalty shall be assessed, collected,

and paid as provided in Section 59-1-401 in the same manner as if the deficiency were an underpayment.

- (3)
 - (a) If any part of a deficiency in a tax imposed by this chapter is due to fraud, there shall be added to the tax a penalty as provided in Section 59-1-401.
 - (b) The amount described in Subsection (3)(a) shall be in lieu of any other penalty imposed by Subsection (1) or (2).
- (4)
 - (a) If any employer, without intent to evade or defeat any tax imposed by this chapter or the payment of any tax imposed by this chapter, fails to make a return and pay a tax withheld by the employer at the time required under Section 59-10-402, the employer shall be liable for the tax and shall pay the tax together with interest at the rate and in the manner prescribed in Section 59-1-402.
 - (b) The penalty provided in Subsection (1) and interest may not be charged to or collected from the employee by the employer.
 - (c) The commission has the same rights and powers for the collection of a tax, interest, and penalty against an employer described in this section as are prescribed by this chapter for the collection of tax against an individual taxpayer.
- (5)
 - (a) Any person required to collect, truthfully account for, and pay over the tax imposed by this chapter who willfully fails to collect the tax or truthfully account for and pay over the tax or willfully attempts in any manner to evade or default the tax or the payment of the tax, shall, in addition to other penalties provided by law, be liable for a penalty as provided in Section 59-1-401.
 - (b) A penalty described in Subsection (1) or (2) may not be imposed for any offense to which Subsection (5)(a) applies.
- (6) In case of each failure to file a statement of a payment to another person, required under authority of Section 59-10-406, relating to information at source, including the duplicate statement of tax withheld on wages, on the date prescribed for filing the statement, including extensions, unless it is shown that the failure is due to reasonable cause and not to willful neglect, there shall, upon notice and demand by the commission and in the same manner as tax, be paid by the person that fails to file the statement, a penalty as provided in Section 59-1-401.
- (7)
 - (a) Except as provided in Subsection (7)(b) or (c), a person is subject to a penalty as provided in Section 59-1-401 if the person fails to do one or more of the following as required by rules prescribed by the commission under this chapter:
 - (i) to include the person's identifying number in any return, statement, or other document;
 - (ii) to furnish the person's identifying number to another person; or
 - (iii) to include on any return, statement, or other document made with respect to another person the identifying number of the other person.
 - (b) A person is not subject to a penalty under Subsection (7)(a) if it is shown that the person's failure to do an act described in Subsection (7)(a) is due to reasonable cause.
 - (c) If a person fails to include the person's own identification number in any return, statement, or other document, a penalty under Subsection (7)(a) may not be imposed unless the person fails to supply the person's identification number to the commission within 30 days after the commission requests the identification number.

- (8) In addition to the penalties required by this section, there shall be added to a tax due interest payable at the rate and in the manner prescribed in Section 59-1-402 for underpayments.
- (9) The penalties and interest required by this section shall be:
 - (a) paid upon notice and demand by the commission in accordance with Section 59-1-1411; and
 - (b) assessed, collected, and paid in accordance with Chapter 1, Part 14, Assessment, Collections, and Refunds Act.
- (10) A reference in this chapter to income tax or tax imposed by this chapter is considered to include the penalties and interest provided by this section.
- (11) For purposes of Subsections (2) and (3), the amount shown as the tax by the taxpayer upon the taxpayer's return shall be taken into account in determining the amount of the deficiency only if the return is filed on or before the last day prescribed for filing of the return, including extensions.

Amended by Chapter 212, 2009 General Session

59-10-541 Violations -- Civil and criminal penalties.

- (1) Every person who, without fraudulent intent, fails to make, render, sign, or verify any return, or to supply any information within the time required by or under the provisions of this chapter, is liable for a penalty as provided in Section 59-1-401.
- (2) It is unlawful for any person, with intent to evade any tax, to fail to timely remit the full amount of tax required by this chapter. A violation of this section is punishable as provided in Section 59-1-401.
- (3) Any person who knowingly or intentionally makes, renders, signs, or verifies any false or fraudulent return or statement or supplies any false or fraudulent information is guilty of a criminal violation as provided in Section 59-1-401.
- (4) Any person who, with intent to evade any tax or any requirement of this chapter, or any lawful requirement of the commission, fails to pay the tax, or to make, render, sign, or verify any return, or to supply any information, within the time required by or under this chapter, or who, with like intent, makes, renders, signs, or verifies any false or fraudulent return or statement, or supplies any false or fraudulent information, is liable for a civil penalty as provided in Section 59-1-401, and is also guilty of a criminal violation as provided in Section 59-1-401.

Amended by Chapter 9, 2001 General Session

59-10-544 General powers and duties of the commission -- Deposit, distribution, or credit of revenues -- Refund reverts to state under certain circumstances.

- (1)
 - (a) The commission shall administer and enforce a tax imposed under this chapter for which purpose it may divide the state into districts in each of which a branch office of the commission may be maintained.
 - (b) A county may not be divided in forming a district.
- (2)
 - (a) The commission shall deposit at least quarterly all revenue collected or received by the commission under this chapter with the state treasurer.
 - (b) Subject to Sections 59-10-529 and 59-10-531, the commission shall distribute and credit, at least quarterly and based on a pro rata share of Income Tax Fund and Uniform School Fund appropriations for the current fiscal year, the revenue described in Subsection (2)(a) to:
 - (i) the Income Tax Fund; and

- (ii) the Uniform School Fund in accordance with Section 53F-9-201.1.
- (c) The commission may credit to or draw from the Income Tax Fund and the Uniform School Fund:
 - (i) annually to adjust for differences between estimates and actual amounts; or
 - (ii) in the proportion described in Subsection (2)(b) to issue a refund.
- (d) If a refund the commission makes is not claimed within two years from the date the commission issues the refund:
 - (i) the refund reverts to the state to be credited to the Income Tax Fund; and
 - (ii) no further claim may be made on the commission for the amount of the refund.

Amended by Chapter 456, 2022 General Session

59-10-546 Application of former law.

Nothing in this chapter applies to or affects any tax, interest, or additions to tax or penalties, imposed by or due under former Title 59, Chapter 14, Cigarette and Tobacco Tax and Licensing Act, in respect of taxable years commencing before January 1, 1973.

Renumbered and Amended by Chapter 2, 1987 General Session

59-10-552 Carry forward of expired or repealed tax credit.

- (1) Except as provided in Subsection (2), when a nonrefundable individual income tax credit, under Part 10, Nonrefundable Tax Credit Act, expires or is repealed, the commission shall allow a claimant, estate, or trust to carry forward any amount of the tax credit that remains for the period of time described in the tax credit for the taxable year in which the claimant, estate, or trust first claimed the tax credit.
- (2) Subsection (1) does not apply to a tax credit described in Subsection 59-10-1010(2)(c)(iv).

Amended by Chapter 413, 2024 General Session

**Part 10
Nonrefundable Tax Credit Act**

59-10-1001 Title.

This part is known as the "Nonrefundable Tax Credit Act."

Enacted by Chapter 223, 2006 General Session

59-10-1002 Definitions.

As used in this part:

- (1)
 - (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1003(2), "claimant" means a resident or nonresident person that has state taxable income.
 - (b) "Claimant" does not include an estate or trust.
- (2) Except as provided in Subsection 59-10-1003(2), "estate" means a nonresident estate or a resident estate that has state taxable income.

- (3) "Nonrefundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or trust may:
 - (a) claim:
 - (i) as provided by statute; and
 - (ii) in an amount that does not exceed the claimant's, estate's, or trust's tax liability under this chapter for a taxable year; and
 - (b) carry forward or carry back:
 - (i) if allowed by statute; and
 - (ii) unless otherwise provided in statute, to the extent that the amount of the tax credit exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year.
- (4) Except as provided in Subsection 59-10-1003(2), "trust" means a nonresident trust or a resident trust that has state taxable income.

Amended by Chapter 82, 2020 General Session

59-10-1002.1 Removal of tax credit from tax return and prohibition on claiming a tax credit -- Conditions for removal and prohibition on claiming a tax credit -- Commission publishing requirements.

- (1) As used in this section, "tax return" means a tax return filed in accordance with this chapter.
- (2) Except as provided in Subsection (4), beginning two taxable years after the requirements of Subsection (3) are met:
 - (a) the commission shall remove a tax credit allowed under this part from each tax return on which the tax credit appears; and
 - (b) a claimant, estate, or trust filing a tax return may not claim the tax credit.
- (3) Except as provided in Subsection (4), the commission shall remove a tax credit allowed under this part from a tax return and a claimant, estate, or trust filing a tax return may not claim the tax credit as provided in Subsection (2) if:
 - (a) the total amount of the tax credit claimed or carried forward by all claimants, estates, or trusts filing tax returns is less than \$10,000 per year for three consecutive taxable years beginning on or after January 1, 2002; and
 - (b) less than 10 claimants, estates, and trusts per year for the three consecutive taxable years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax credit.
- (4) This section does not apply to a tax credit under Section 59-10-1006 or 59-10-1027.
- (5) The commission shall, on or before the November interim meeting of the year after the taxable year in which the requirements of Subsection (3) are met, report to the Revenue and Taxation Interim Committee by electronic means that in accordance with this section:
 - (a) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and
 - (b) a claimant, estate, or trust filing a tax return may not claim the tax credit.
- (6)
 - (a) Within a 30-day period after making the report required by Subsection (5), the commission shall publish a list in accordance with Subsection (6)(b) stating each tax credit that the commission will remove from a return on which the tax credit appears.
 - (b) The list shall:
 - (i) be published on:
 - (A) the commission's website; and
 - (B) the public legal notice website in accordance with Section 45-1-101;
 - (ii) include a statement that:

- (A) the commission is required to remove the tax credit from each return on which the tax credit appears; and
- (B) the tax credit may not be claimed on a return;
- (iii) state the taxable year for which the removal described in Subsection (6)(a) takes effect; and
- (iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (6).

Amended by Chapter 64, 2016 General Session
Amended by Chapter 135, 2016 General Session

59-10-1002.2 Apportionment of tax credits.

- (1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023, 59-10-1024, 59-10-1028, 59-10-1042, 59-10-1043, 59-10-1044, 59-10-1046, or 59-10-1047 may only claim an apportioned amount of the tax credit equal to:
 - (a) for a nonresident individual, the product of:
 - (i) the state income tax percentage for the nonresident individual; and
 - (ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or
 - (b) for a part-year resident individual, the product of:
 - (i) the state income tax percentage for the part-year resident individual; and
 - (ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.
- (2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, or 59-10-1028 may only claim an apportioned amount of the tax credit equal to the product of:
 - (a) the state income tax percentage for the nonresident estate or trust; and
 - (b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but for the apportionment requirements of this section.

Amended by Chapter 460, 2023 General Session
Amended by Chapter 462, 2023 General Session

59-10-1003 Tax credit for tax paid by individual to another state.

- (1) Except as provided in Subsection (2), a claimant, estate, or trust may claim a nonrefundable tax credit against the tax otherwise due under this chapter equal to the amount of the tax imposed:
 - (a) on that claimant, estate, or trust for the taxable year;
 - (b) by another state of the United States, the District of Columbia, or a possession of the United States; and
 - (c) on income:
 - (i) derived from sources within that other state of the United States, District of Columbia, or possession of the United States; and
 - (ii) if that income is also subject to tax under this chapter.
- (2) A tax credit under this section may only be claimed by a:
 - (a) resident claimant;
 - (b) resident estate; or
 - (c) resident trust.

- (3) The application of the tax credit provided under this section may not operate to reduce the tax payable under this chapter to an amount less than would have been payable were the income from the other state disregarded.
- (4) The tax credit provided by this section shall be computed and claimed in accordance with rules prescribed by the commission.

Renumbered and Amended by Chapter 223, 2006 General Session

59-10-1004 Tax credit for cash contributions to sheltered workshops.

- (1) For tax years beginning January 1, 1983, and thereafter, in computing the tax due the state under Section 59-10-104 there shall be a nonrefundable tax credit allowed for cash contributions made by a claimant, estate, or trust within the taxable year to nonprofit rehabilitation sheltered workshop facilities for persons with a disability operating in Utah that are certified by the Department of Health and Human Services as a qualifying facility.
- (2) The allowable tax credit is an amount equal to 50% of the aggregate amount of the cash contributions to the qualifying rehabilitation facilities, but the allowed tax credit may not exceed \$200.
- (3) The amount of contribution claimed as a tax credit under this section may not also be claimed as a charitable deduction in determining net taxable income.

Amended by Chapter 329, 2023 General Session

59-10-1005 Tax credit for at-home parent.

- (1) As used in this section:
 - (a) "At-home parent" means a parent:
 - (i) who provides full-time care at the parent's residence for one or more of the parent's own qualifying children;
 - (ii) who claims the qualifying child as a dependent on the parent's individual income tax return for the taxable year for which the parent claims the credit; and
 - (iii) if the sum of the following amounts are \$3,000 or less for the taxable year for which the parent claims the credit:
 - (A) the total wages, tips, and other compensation listed on all of the parent's federal Forms W-2; and
 - (B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or Loss From Business.
 - (b) "Parent" means an individual who:
 - (i) is the biological mother or father of a qualifying child;
 - (ii) is the stepfather or stepmother of a qualifying child;
 - (iii)
 - (A) legally adopts a qualifying child; or
 - (B) has a qualifying child placed in the individual's home:
 - (I) by a child-placing agency, as defined in Section 26B-2-101; and
 - (II) for the purpose of legally adopting the child;
 - (iv) is a foster parent of a qualifying child; or
 - (v) is a legal guardian of a qualifying child.
 - (c) "Qualifying child" means a child who is no more than 12 months of age on the last day of the taxable year for which the tax credit is claimed.

- (2) For a taxable year beginning on or after January 1, 2000, a claimant may claim on the claimant's individual income tax return a nonrefundable tax credit of \$100 for each qualifying child if:
 - (a) the claimant or another claimant filing a joint individual income tax return with the claimant is an at-home parent; and
 - (b) the adjusted gross income of all of the claimants filing the individual income tax return is less than or equal to \$50,000.
- (3) A claimant may not carry forward or carry back a tax credit authorized by this section.
- (4)
 - (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the Division of Finance shall transfer at least annually from the General Fund into the Income Tax Fund the aggregate amount of all tax credits claimed under this section.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the Income Tax Fund as required by Subsection (4)(a).

Amended by Chapter 456, 2022 General Session

59-10-1006 Historic preservation tax credit.

- (1)
 - (a) For tax years beginning January 1, 1993, and thereafter, there is allowed to a claimant, estate, or trust, as a nonrefundable tax credit against the income tax due, an amount equal to 20% of qualified rehabilitation expenditures, costing more than \$10,000, incurred in connection with any residential certified historic building. When qualifying expenditures of more than \$10,000 are incurred, the tax credit allowed by this section shall apply to the full amount of expenditures.
 - (b) All rehabilitation work to which the tax credit may be applied shall be approved by the State Historic Preservation Office prior to completion of the rehabilitation project as meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can provide corrective comments to the claimant, estate, or trust in order to preserve the historical qualities of the building.
 - (c) Any amount of tax credit remaining may be carried forward to each of the five taxable years following the qualified expenditures.
 - (d) The commission, in consultation with the State Historic Preservation Office, shall promulgate rules to implement this section.
- (2) As used in this section:
 - (a) "Certified historic building" means a building that is listed on the National Register of Historic Places within three years of taking the credit under this section or that is located in a National Register Historic District and the building has been designated by the State Historic Preservation Office as being of significance to the district.
 - (b)
 - (i) "Qualified rehabilitation expenditures" means any amount properly chargeable to the rehabilitation and restoration of the physical elements of the building, including the historic decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing systems to applicable codes.
 - (ii) "Qualified rehabilitation expenditures" does not include expenditures related to:
 - (A) a claimant's, estate's, or trust's personal labor;
 - (B) cost of acquisition of the property;

- (C) any expenditure attributable to the enlargement of an existing building;
 - (D) rehabilitation of a certified historic building without the approval required in Subsection (1)(b); or
 - (E) any expenditure attributable to landscaping and other site features, outbuildings, garages, and related features.
- (c) "Residential" means a building used for residential use, either owner occupied or income producing.

Amended by Chapter 160, 2023 General Session

59-10-1007 Recycling market development zones tax credits.

- (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:
- (a) a tax credit equal to the product of the percentage listed in Subsection 59-10-104(2) and the purchase price paid for machinery and equipment used directly in:
 - (i) commercial composting; or
 - (ii) manufacturing facilities or plant units that:
 - (A) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or
 - (B) reduce or reuse postconsumer waste material; and
 - (b) a tax credit equal to the lesser of:
 - (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
 - (ii) \$2,000.
- (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, that includes:
 - (i) a statement that the claimant, estate, or trust is operating within the boundaries of a recycling market development zone;
 - (ii) for a claim of the tax credit described in Subsection (1)(a):
 - (A) the type of the machinery and equipment that the claimant, estate, or trust purchased;
 - (B) the date that the claimant, estate, or trust purchased the machinery and equipment;
 - (C) the purchase price for the machinery and equipment;
 - (D) the total purchase price for all machinery and equipment for which the claimant, estate, or trust is claiming a tax credit;
 - (E) the amount of the claimant's, estate's, or trust's tax credit; and
 - (F) a statement that the machinery and equipment are integral to the composting or recycling process; and
 - (iii) for a claim of the tax credit described in Subsection (1)(b):
 - (A) the type of net expenditure that the claimant, estate, or trust made to a third party;
 - (B) the date that the claimant, estate, or trust made the payment to a third party;
 - (C) the amount that the claimant, estate, or trust paid to each third party;
 - (D) the total amount that the claimant, estate, or trust paid to all third parties;
 - (E) a statement that the net expenditures support the establishment and operation of recycling or composting technology in the state; and

- (F) the amount of the claimant's, estate's, or trust's tax credit.
- (b)
- (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), 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.
- (8) A claimant, estate, or trust may not claim or carry forward a tax credit under this section for a taxable year during which the claimant, estate, or trust claims the targeted business income tax credit under Section 59-10-1112.

Amended by Chapter 367, 2021 General Session

59-10-1010 Utah low-income housing tax credit.

- (1) As used in this section:
- (a) "Allocation certificate" means a certificate in a form prescribed by the commission and issued by the corporation to a housing sponsor that specifies the aggregate amount of the tax credit awarded under this section to a qualified development and includes:
 - (i) the aggregate annual amount of the tax credit awarded that may be claimed by one or more qualified taxpayers; and
 - (ii) the credit period over which the tax credit may be claimed by one or more qualified taxpayers.
 - (b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.
 - (c) "Corporation" means the Utah Housing Corporation created in Section 63H-8-201.

- (d) Except as provided in Subsection (5)(c), "credit period" means the same as that term is defined in Section 42(f)(1), Internal Revenue Code.
 - (e) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor or one of the housing sponsor's direct or indirect partners, members, or shareholders that will provide information to the commission regarding the allocation of tax credits under this section.
 - (f) "Federal low-income housing credit" means the federal low-income housing credit described in Section 42, Internal Revenue Code.
 - (g) "Housing sponsor" means an entity that owns a qualified development.
 - (h) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.
 - (i)
 - (i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.
 - (ii) The determination of whether a pass-through entity taxpayer is considered a partner, member, or shareholder of a pass-through entity shall be made in accordance with applicable state law governing the pass-through entity.
 - (j) "Qualified allocation plan" means a qualified allocation plan adopted by the corporation in accordance with Section 42(m), Internal Revenue Code.
 - (k) "Qualified development" means a "qualified low-income housing project":
 - (i) as defined in Section 42(g)(1), Internal Revenue Code; and
 - (ii) that is located in the state.
 - (l)
 - (i) "Qualified taxpayer" means a claimant, estate, or trust that:
 - (A) owns a direct or indirect interest, through one or more pass-through entities, in a qualified development; and
 - (B) meets the requirements to claim a tax credit under this section.
 - (ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit under this section is passed through by a pass-through entity.
- (2)
- (a) A qualified taxpayer may claim a nonrefundable tax credit under this section against taxes otherwise due under this chapter.
 - (b) The tax credit shall be in an amount equal to the tax credit amount specified on the allocation certificate that the corporation issues to a housing sponsor under this section.
- (c)
- (i) For a calendar year beginning on or before December 31, 2016, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-7-607 is an amount equal to the product of:
 - (A) 12.5 cents; and
 - (B) the population of Utah.
 - (ii) For a calendar year beginning on or after January 1, 2017, but beginning on or before December 31, 2022, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-7-607 is an amount equal to the product of:
 - (A) 34.5 cents; and
 - (B) the population of Utah.
 - (iii) For a calendar year beginning on or after January 1, 2023, but beginning on or before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-7-607 is \$10,000,000.

- (iv) For a calendar year beginning on or after January 1, 2024, in addition to the amount of annual tax credits available for allocation as described in Subsections (2)(c)(i) through (2)(c)(iii), the corporation shall have the following tax credit amounts available for allocation:
 - (A) any tax credits allocated in a calendar year that are subsequently returned to the corporation or recaptured by the corporation may be allocated in the following calendar year, except no tax credits under this Subsection (2)(c)(iv) shall be allocated after December 31, 2028; and
 - (B) if the actual amount of tax credits allocated in a calendar year to qualified developments is less than the total amount of credits available to be allocated to qualified developments, the balance of the credits but no more than 15% of the total amount of credits available for allocation to qualified developments may be allocated by the corporation to qualified developments in the following calendar year, except no tax credits under this Subsection (2)(c)(iv) shall be allocated after December 31, 2028.
 - (v) For a calendar year beginning on or after January 1, 2029, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-7-607 is the amount described in Subsection (2)(c)(ii).
 - (vi) For purposes of this Subsection (2)(c), the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.
- (d)
- (i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity may allocate a tax credit under this section to one or more of the pass-through entity's pass-through entity taxpayers in any manner agreed upon, regardless of whether:
 - (A) the pass-through entity taxpayer is eligible to claim any portion of a federal low-income housing tax credit for the qualified development;
 - (B) the allocation of the tax credit has substantial economic effect within the meaning of Section 704(b), Internal Revenue Code; or
 - (C) the pass-through entity taxpayer is considered a partner for federal income tax purposes.
 - (ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the pass-through entity is:
 - (A) acquired on or before December 31 of the tax year to which the tax credit relates; and
 - (B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax credit relates.
- (e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity, including the pass-through entity taxpayer's interest in the tax credit associated with the ownership interest, the assignee shall be considered a qualified taxpayer and may claim the tax credit so long as the assignee's ownership interest in the pass-through entity is:
- (i) acquired on or before December 31 of the tax year to which the tax credit relates; and
 - (ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax credit relates.
- (3)
- (a) The corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate the criteria and procedures into the corporation's qualified allocation plan.
 - (b) The corporation shall create the criteria under Subsection (3)(a) based on:

- (i) the number of affordable housing units to be created in Utah for low and moderate income persons in a qualified development;
 - (ii) the level of area median income being served by a qualified development;
 - (iii) the need for the tax credit for the economic feasibility of a qualified development; and
 - (iv) the extended period for which a qualified development commits to remain as affordable housing.
- (4) Any housing sponsor may apply to the corporation for a tax credit allocation under this section.
- (5)
- (a)
 - (i) The corporation shall determine the amount of the tax credit to allocate to a qualified development in accordance with the qualified allocation plan.
 - (ii)
 - (A) Before the allocation certificate is issued to the housing sponsor, the corporation shall send to the housing sponsor written notice of the corporation's preliminary determination of the tax credit amount to be allocated to the qualified development.
 - (B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's preliminary determination of the tax credit amount to be allocated to the qualified development for each year of the credit period and state that allocation of the tax credit is contingent upon the issuance of an allocation certificate.
 - (iii) Upon approving a final cost certification in accordance with the qualified allocation plan, the corporation shall issue an allocation certificate to the housing sponsor as evidence of the allocation.
 - (iv) The amount of the tax credit specified in an allocation certificate may not exceed 100% of the federal low-income housing credit awarded to a qualified development.
 - (b)
 - (i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the corporation for a tax credit under this section and an allocation certificate is not yet issued, a qualified taxpayer may claim a tax credit based upon the corporation's preliminary determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).
 - (ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is different than the amount specified in the allocation certificate.
 - (c) The amount of tax credit that may be claimed in the first year of the credit period may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.
 - (d) On or before January 31 of each year, the corporation shall provide to the commission in a form prescribed by the commission a report that describes each allocation certificate that the corporation issued during the previous calendar year.
- (6)
- (a) A housing sponsor shall provide to the commission identification of the housing sponsor's designated reporter.
 - (b) For each tax year in which a tax credit is claimed under this section, the designated reporter shall provide to the commission in a form prescribed by the commission:
 - (i) a list of each qualified taxpayer that has been allocated a portion of the tax credit awarded in the allocation certificate for that tax year;
 - (ii) the amount of tax credit that has been allocated to each qualified taxpayer described in Subsection (6)(b)(i) for that tax year; and

- (iii) any other information, as prescribed by the commission, to demonstrate that the aggregate annual amount of tax credits allocated to all qualified taxpayers for that tax year does not exceed the aggregate annual tax credit amount specified in the allocation certificate.
- (7)
- (a) All elections made by a housing sponsor pursuant to Section 42, Internal Revenue Code, shall apply to this section.
 - (b)
 - (i) If a qualified taxpayer is required to recapture a portion of any federal low-income housing credit, the qualified taxpayer that has been allocated a portion of a tax credit under this section shall also be required to recapture a portion of the tax credit under this section.
 - (ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing credit amount subject to recapture.
 - (iii) The designated reporter shall identify each qualified taxpayer that is required to recapture a portion of any state tax credits as described in this Subsection (7)(b).
- (8)
- (a) Any tax credits returned to the corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.
 - (b) Tax credits that are unallocated by the corporation in any year may be carried over for allocation in subsequent years.
- (9)
- (a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit may be carried back three years or may be carried forward five years as a credit against the tax.
 - (b) Carryover tax credits under Subsection (9)(a) shall be applied against the tax:
 - (i) before the application of the tax credits earned in the current year; and
 - (ii) on a first-earned first-used basis.
- (10) Any tax credit taken in this section may be subject to an annual audit by the commission.
- (11) The corporation shall annually provide an electronic report to the Revenue and Taxation Interim Committee that includes:
- (a) the purpose and effectiveness of the tax credits;
 - (b) any recommendations for legislative changes to the aggregate tax credit amount that the corporation is authorized to allocate each year under Subsection (2)(c); and
 - (c) the benefits of the tax credits to the state.
- (12) The commission may, in consultation with the corporation, promulgate rules to implement this section.
- (13)
- (a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation Interim Committee shall conduct a review of the aggregate tax credit amount that the corporation is authorized to allocate and has allocated each year under Subsection (2)(c).
 - (b) In a review under this Subsection (13), the Revenue and Taxation Interim Committee shall:
 - (i) study any recommendations provided by the corporation under Subsection (11)(b); and
 - (ii) if the Revenue and Taxation Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

Amended by Chapter 413, 2024 General Session

59-10-1012 Tax credits for research activities conducted in the state -- Carry forward -- Commission to report modification or repeal of certain federal provisions -- Revenue and Taxation Interim Committee study.

- (1)
- (a) A claimant, estate, or trust meeting the requirements of this section may claim the following nonrefundable tax credits:
 - (i) a research tax credit of 5% of the claimant's, estate's, or trust's qualified research expenses for the current taxable year that exceed the base amount provided for under Subsection (3);
 - (ii) a tax credit for a payment to a qualified organization for basic research as provided in Section 41(e), Internal Revenue Code of 5% for the current taxable year that exceed the base amount provided for under Subsection (3); and
 - (iii) a tax credit equal to 7.5% of the claimant's, estate's, or trust's qualified research expenses for the current taxable year.
 - (b) Subject to Subsection (4), a claimant, estate, or trust may claim a tax credit under:
 - (i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the claimant, estate, or trust incurs the qualified research expenses; or
 - (ii) Subsection (1)(a)(ii), for the taxable year for which the claimant, estate, or trust makes the payment to the qualified organization.
 - (c) The tax credits provided for in this section do not include the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code.
- (2) Except as specifically provided for in this section:
- (a) the tax credits authorized under Subsection (1) shall be calculated as provided in Section 41, Internal Revenue Code; and
 - (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the tax credits authorized under Subsection (1).
- (3) For purposes of this section:
- (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal Revenue Code, except that:
 - (i) the base amount does not include the calculation of the alternative incremental credit provided for in Section 41(c)(4), Internal Revenue Code;
 - (ii) a claimant's, estate's, or trust's gross receipts include only those gross receipts attributable to sources within this state as provided in Section 59-10-118; and
 - (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the base amount, a claimant, estate, or trust:
 - (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B), Internal Revenue Code, regardless of whether the claimant, estate, or trust meets the requirements of Section 41(c)(3)(B)(i)(I) or (II), Internal Revenue Code; and
 - (B) may not revoke an election to be treated as a start-up company under Subsection (3)(a)(iii)(A);
 - (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that the term includes only basic research conducted in this state;
 - (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except that the term includes only qualified research conducted in this state;
 - (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal Revenue Code, except that the term includes only:
 - (i) in-house research expenses incurred in this state; and
 - (ii) contract research expenses incurred in this state; and

- (e) a tax credit provided for in this section is not terminated if a credit terminates under Section 41, Internal Revenue Code.
- (4)
 - (a) If the amount of a tax credit claimed by a claimant, estate, or trust under Subsection (1)(a)(i) or (ii) exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability:
 - (i) may be carried forward for a period that does not exceed the next 14 taxable years; and
 - (ii) may not be carried back to a taxable year preceding the current taxable year.
 - (b) A claimant, estate, or trust may not carry forward the tax credit allowed by Subsection (1)(a)(iii).
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for purposes of this section prescribing a certification process for qualified organizations to ensure that amounts paid to the qualified organizations are for basic research conducted in this state.
- (6) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall report the modification or repeal by electronic means to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.
- (7)
 - (a) The Revenue and Taxation Interim Committee shall review the tax credits provided for in this section on or before October 1 of the year after the year in which the commission reports under Subsection (6) a modification or repeal of a provision of Section 41, Internal Revenue Code.
 - (b) The review described in Subsection (7)(a) is in addition to the review required by Section 59-10-137.
 - (c) Notwithstanding Subsection (7)(a), the Revenue and Taxation Interim Committee is not required to review the tax credits provided for in this section if the only modification to a provision of Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section 41(h), Internal Revenue Code.
 - (d) The Revenue and Taxation Interim Committee shall address in a review under this section:
 - (i) the cost of the tax credits provided for in this section;
 - (ii) the purpose and effectiveness of the tax credits provided for in this section;
 - (iii) whether the tax credits provided for in this section benefit the state; and
 - (iv) whether the tax credits provided for in this section should be:
 - (A) continued;
 - (B) modified; or
 - (C) repealed.
 - (e) If the Revenue and Taxation Interim Committee reviews the tax credits provided for in this section, the committee shall issue a report of the Revenue and Taxation Interim Committee's findings.

Amended by Chapter 1, 2016 Special Session 3

59-10-1014 Nonrefundable clean energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

- (1) As used in this section:
 - (a)
 - (i) "Active solar system" means a system of equipment that is capable of:

- (A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and
- (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.
- (ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.
- (b) "Biomass system" means a system of apparatus and equipment for use in:
 - (i) converting material into biomass energy, as defined in Section 59-12-102; and
 - (ii) transporting the biomass energy by separate apparatus to the point of use or storage.
- (c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.
- (d) "Geothermal electricity" means energy that is:
 - (i) contained in heat that continuously flows outward from the earth; and
 - (ii) used as a sole source of energy to produce electricity.
- (e) "Geothermal energy" means energy generated by heat that is contained in the earth.
- (f) "Geothermal heat pump system" means a system of apparatus and equipment that:
 - (i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and
 - (ii) helps meet heating and cooling needs of a structure.
- (g) "Hydroenergy system" means a system of apparatus and equipment that is capable of:
 - (i) intercepting and converting kinetic water energy into electrical or mechanical energy; and
 - (ii) transferring this form of energy by separate apparatus to the point of use or storage.
- (h) "Office" means the Office of Energy Development created in Section 79-6-401.
- (i)
 - (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.
 - (ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.
- (j) "Photovoltaic system" means an active solar system that generates electricity from sunlight.
- (k)
 - (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a residential energy system.
 - (ii) "Principal recovery portion" does not include:
 - (A) an interest charge; or
 - (B) a maintenance expense.
- (l) "Residential energy system" means the following used to supply energy to or for a residential unit:
 - (i) an active solar system;
 - (ii) a biomass system;
 - (iii) a direct use geothermal system;
 - (iv) a geothermal heat pump system;
 - (v) a hydroenergy system;
 - (vi) a passive solar system; or
 - (vii) a wind system.
- (m)

- (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:
 - (A) is located in the state; and
 - (B) serves as a dwelling for a person, group of persons, or a family.
- (ii) "Residential unit" does not include property subject to a fee under:
 - (A) Section 59-2-405;
 - (B) Section 59-2-405.1;
 - (C) Section 59-2-405.2;
 - (D) Section 59-2-405.3; or
 - (E) Section 72-10-110.5.
- (n) "Wind system" means a system of apparatus and equipment that is capable of:
 - (i) intercepting and converting wind energy into mechanical or electrical energy; and
 - (ii) transferring these forms of energy by a separate apparatus to the point of use or storage.
- (2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.
- (3) For a taxable year beginning on or after January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit under this section with respect to a residential unit the claimant, estate, or trust owns or uses if:
 - (a) the claimant, estate, or trust:
 - (i) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or
 - (ii) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;
 - (b) the residential energy system is installed on or after January 1, 2007; and
 - (c) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).
- (4)
 - (a) For a residential energy system, other than a photovoltaic system, the tax credit described in this section is equal to the lesser of:
 - (i) 25% of the reasonable costs, including installation costs, of each residential energy system installed with respect to each residential unit the claimant, estate, or trust owns or uses; and
 - (ii) \$2,000.
 - (b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic system, the tax credit described in this section is equal to the lesser of:
 - (i) 25% of the reasonable costs, including installation costs, of each system installed with respect to each residential unit the claimant, estate, or trust owns or uses; or
 - (ii)
 - (A) for a system installed on or after January 1, 2007, but on or before December 31, 2017, \$2,000;
 - (B) for a system installed on or after January 1, 2018, but on or before December 31, 2020, \$1,600;
 - (C) for a system installed on or after January 1, 2021, but on or before December 31, 2021, \$1,200;
 - (D) for a system installed on or after January 1, 2022, but on or before December 31, 2022, \$800;
 - (E) for a system installed on or after January 1, 2023, but on or before December 31, 2023, \$400; and
 - (F) for a system installed on or after January 1, 2024, \$0.
- (c)

- (i) The office shall determine the amount of the tax credit that a claimant, estate, or trust may claim and list that amount on the written certification that the office issues under Subsection (5).
 - (ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the written certification that the office issues under Subsection (5).
 - (d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the taxable year in which the residential energy system is installed.
 - (e) If the amount of a tax credit listed on the written certification exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.
 - (f) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per residential unit.
 - (g)
 - (i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.
 - (ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim as a tax credit under Subsection (3) only the principal recovery portion of the lease payments.
 - (iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim a tax credit under Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.
 - (h) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under Subsection (3):
 - (i) the claimant, estate, or trust may assign the tax credit to the other person; and
 - (ii)
 - (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the other person had met the requirements of Section 59-7-614 to claim the tax credit; or
 - (B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.
- (5)
- (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.
 - (b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:
 - (i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and
 - (ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:
 - (A) has been completely installed;
 - (B) is a viable system for saving or producing energy from clean resources; and

- (C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:
 - (i) for determining whether a residential energy system meets the requirements of Subsection (5)(b)(ii); and
 - (ii) for purposes of determining the amount of a tax credit that a claimant, estate, or trust may receive under Subsection (4), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.
- (d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.
- (e) The office 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 office issues a written certification; and
 - (ii) for each claimant, estate, or trust:
 - (A) the amount of the tax credit listed on the written certification; and
 - (B) the date the clean energy system was installed.
- (6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.
- (7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

Amended by Chapter 53, 2024 General Session

59-10-1015 Definitions -- Tax credit for live organ donation expenses -- Rulemaking authority.

- (1) As used in this section:
 - (a) "human organ" means:
 - (i) human bone marrow; or
 - (ii) any part of a human:
 - (A) intestine;
 - (B) kidney;
 - (C) liver;
 - (D) lung; or
 - (E) pancreas;
 - (b) "live organ donation" means that an individual who is living donates one or more of that individual's human organs:
 - (i) to another human; and
 - (ii) to be transplanted:
 - (A) using a medical procedure; and
 - (B) to the body of the other human; and
 - (c)
 - (i) "live organ donation expenses" means the total amount of expenses:
 - (A) incurred by a claimant; and
 - (B) that:

- (I) are not reimbursed to that claimant by any person;
 - (II) are directly related to a live organ donation by:
 - (Aa) the claimant; or
 - (Bb) another individual that the claimant is allowed to claim as a dependent in accordance with Section 151, Internal Revenue Code; and
 - (III) are for:
 - (Aa) travel;
 - (Bb) lodging; or
 - (Cc) a lost wage; and
 - (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "lost wage."
- (2) For taxable years beginning on or after January 1, 2005, a claimant may claim a nonrefundable tax credit:
- (a) as provided in this section;
 - (b) against taxes otherwise due under this chapter;
 - (c) for live organ donation expenses incurred during the taxable year for which the live organ donation occurs; and
 - (d) in an amount equal to the lesser of:
 - (i) the actual amount of the live organ donation expenses; or
 - (ii) \$10,000.
- (3) If the amount of a tax credit under this section exceeds a claimant's tax liability under this chapter for a taxable year, the amount of the tax credit that exceeds the claimant's tax liability may be carried forward for a period that does not exceed the next five taxable years.

Amended by Chapter 382, 2008 General Session

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 53B-8a-102.
 - (b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.
 - (c) "Higher education costs" means the same as that term is defined in Section 53B-8a-102.5.
 - (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) and:
 - (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:
 - (A) listed in Subsection 53B-8a-106(1)(e)(ii); and
 - (B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g);
 - (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:
 - (A) listed in Subsection 53B-8a-106(1)(e)(iii); and
 - (B) increased or kept for that taxable year in accordance with Subsections 53B-8a-106(1)(f) and (g); or
 - (iii) for a grantor trust:
 - (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

- (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).
- (e) "Owner of the grantor trust" means the same as that term is defined in Section 53B-8a-102.5.
- (f) "Qualified investment" means the same as that term is defined in Section 53B-8a-102.5.
- (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:
 - (a) the amount of a qualified investment made:
 - (i) during the taxable year; and
 - (ii) into an account owned by the claimant, estate, or trust; and
 - (b) the percentage listed in Subsection 59-10-104(2).
- (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).
- (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.

Amended by Chapter 367, 2021 General Session

Amended by Chapter 370, 2021 General Session

59-10-1018 Definitions -- Nonrefundable taxpayer tax credits.

- (1) As used in this section:
 - (a) "Head of household filing status" means a head of household, as defined in Section 2(b), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.
 - (b) "Joint filing status" means:
 - (i) spouses who file a single return jointly under this chapter for a taxable year; or
 - (ii) a surviving spouse, as defined in Section 2(a), Internal Revenue Code, who files a single federal individual income tax return for the taxable year.
 - (c) "Qualifying dependent" means an individual with respect to whom the claimant is allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year.
 - (d) "Single filing status" means:
 - (i) a single individual who files a single federal individual income tax return for the taxable year; or
 - (ii) a married individual who:
 - (A) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and
 - (B) files a single federal individual income tax return for the taxable year.
 - (e) "State or local income tax" means the lesser of:
 - (i) the amount of state or local income tax that the claimant:
 - (A) pays for the taxable year; and

- (B) reports on the claimant's federal individual income tax return for the taxable year, regardless of whether the claimant is allowed an itemized deduction on the claimant's federal individual income tax return for the taxable year for the full amount of state or local income tax paid; and
- (ii) \$10,000.
- (f)
- (i) "Utah itemized deduction" means the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year minus any amount of state or local income tax for the taxable year.
- (ii) "Utah itemized deduction" does not include any amount of qualified business income that the claimant subtracts as allowed by Section 199A, Internal Revenue Code, on the claimant's federal income tax return for that taxable year.
- (g) "Utah personal exemption" means, subject to Subsection (6), \$1,750 multiplied by the number of the claimant's qualifying dependents plus an additional qualifying dependent in the year of a qualifying dependent's birth.
- (2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the sum of:
- (a)
- (i) for a claimant that deducts the standard deduction on the claimant's federal individual income tax return for the taxable year, 6% of the amount the claimant deducts as allowed as the standard deduction on the claimant's federal individual income tax return for that taxable year; or
- (ii) for a claimant that itemizes deductions on the claimant's federal individual income tax return for the taxable year, 6% of the amount of the claimant's Utah itemized deduction; and
- (b) 6% of the claimant's Utah personal exemption.
- (3) A claimant may not carry forward or carry back a tax credit under this section.
- (4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar by which a claimant's state taxable income exceeds:
- (a) for a claimant who has a single filing status, \$15,095;
- (b) for a claimant who has a head of household filing status, \$22,643; or
- (c) for a claimant who has a joint filing status, \$30,190.
- (5)
- (a) For a taxable year beginning on or after January 1, 2022, the commission shall increase or decrease annually the following dollar amounts by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2020:
- (i) the dollar amount listed in Subsection (4)(a); and
- (ii) the dollar amount listed in Subsection (4)(b).
- (b) After the commission increases or decreases the dollar amounts listed in Subsection (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the nearest whole dollar.
- (c) After the commission rounds the dollar amounts as required by Subsection (5)(b), the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that the dollar amount listed in Subsection (4)(c) is equal to the product of:
- (i) the dollar amount listed in Subsection (4)(a); and
- (ii) two.

- (d) For purposes of Subsection (5)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.
- (6)
 - (a) For a taxable year beginning on or after January 1, 2022, the commission shall increase annually the Utah personal exemption amount listed in Subsection (1)(g) by a percentage equal to the percentage by which the consumer price index for the preceding calendar year exceeds the consumer price index for calendar year 2020.
 - (b) After the commission increases the Utah personal exemption amount as described in Subsection (6)(a), the commission shall round the Utah personal exemption amount to the nearest whole dollar.
 - (c) For purposes of Subsection (6)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

Amended by Chapter 459, 2023 General Session

59-10-1019 Definitions -- Nonrefundable retirement tax credit.

- (1) As used in this section:
 - (a) "Eligible claimant" means a claimant, regardless of whether that claimant is retired, who was born on or before December 31, 1952.
 - (b) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.
 - (c) "Joint filing status" means the same as that term is defined in Section 59-10-1018.
 - (d) "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.
 - (e) "Modified adjusted gross income" means the sum of the following for an eligible claimant or, if the eligible claimant's return under this chapter is allowed a joint filing status, the eligible claimant and the eligible 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)(e)(i); and
 - (iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(e)(i).
 - (f) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.
- (2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), each eligible claimant may claim a nonrefundable tax credit of \$450 against taxes otherwise due under this part.
- (3) An eligible claimant may not:
 - (a) carry forward or carry back the amount of a tax credit under this section that exceeds the eligible claimant's tax liability for the taxable year; or
 - (b) claim a tax credit under this section for a taxable year if a tax credit under Section 59-10-1042 or 59-10-1043 is claimed on the claimant's return for the same taxable year.
- (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by \$.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

- (a) for a federal individual income tax return that is allowed a married filing separately status, \$16,000;
- (b) for a federal individual income tax return that is allowed a single filing status, \$25,000;
- (c) for a federal individual income tax return that is allowed a head of household filing status, \$32,000; or
- (d) for a return under this chapter that is allowed a joint filing status, \$32,000.

Amended by Chapter 258, 2022 General Session

59-10-1020 Nonrefundable estate or trust tax credit.

- (1) For taxable years beginning on or after January 1, 2008, an estate or trust may claim a nonrefundable tax credit against taxes otherwise due under Part 2, Trusts and Estates, equal to the product of:
 - (a) the sum of:
 - (i) the amount that a resident or nonresident estate or trust deducts under Section 163, Internal Revenue Code, for interest paid or accrued, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;
 - (ii) the amount that a resident or nonresident estate or trust deducts under Section 164, Internal Revenue Code, for taxes paid or accrued other than for any amount paid or accrued for state or local income taxes for the taxable year, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;
 - (iii) the amount that a resident or nonresident estate or trust other than a qualified nongrantor charitable lead trust deducts under Section 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year;
 - (iv) subject to Subsection (3), the amount that a resident or nonresident estate or trust deducts as an attorney, accountant, or return preparer fee, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and
 - (v) subject to Subsection (3), the amount that a resident or nonresident estate or trust deducts as an other deduction or miscellaneous itemized deduction, as allowed on the resident or nonresident estate's or trust's federal income tax return for estates and trusts for the taxable year; and
 - (b) 6%.
- (2) An estate or trust may not carry forward or carry back a tax credit under this section.
- (3) The tax credit allowed by Subsection (1) shall be reduced by \$.013 for each dollar by which an estate's or trust's taxable income exceeds \$12,000.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (a) for purposes of Subsection (1)(a)(iv), the commission may make rules for determining what constitutes an attorney, accountant, or return preparer fee if that attorney, accountant, or return preparer fee is consistent with an attorney, accountant, or return preparer fee that may be deducted on a federal income tax return for estates and trusts; or
 - (b) for purposes of Subsection (1)(a)(v), the commission may make rules for determining what constitutes an other deduction or miscellaneous itemized deduction if that other deduction or miscellaneous itemized deduction is consistent with an other deduction or miscellaneous itemized deduction that may be deducted on a federal income tax return for estates and trusts.

Enacted by Chapter 389, 2008 General Session

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) short-term capital gain; or
- (B) 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 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

(iii) issued:

- (A) by a Utah small business corporation;
- (B) on or after January 1, 2008; and
- (C) for:
 - (I) money; or
 - (II) other property, except for stock or securities.

(e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

(f)

(i) "Utah small business corporation" means a corporation that:

- (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as defined in Section 1244(c)(3), Internal Revenue Code;
- (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section 1244(c)(1)(C), Internal Revenue Code; and
- (C) has its commercial domicile in this state.

(ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.

(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."

(2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the product of:

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

- (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the nonrefundable tax credit allowed by Subsection (2) if:
 - (a) 70% or more of the gross proceeds of the capital gain transaction are expended:
 - (i) to purchase qualifying stock in a Utah small business corporation; and
 - (ii) within a 12-month period after the day on which the capital gain transaction occurs; and
 - (b) prior to 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 "gross proceeds"; and
 - (b) prescribing the circumstances under which a claimant, estate, or trust has an ownership interest in a Utah small business corporation.

Amended by Chapter 367, 2021 General Session

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).
 - (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 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 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 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:
 - (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 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.

Amended by Chapter 367, 2021 General Session

59-10-1024 Nonrefundable tax credit for qualifying solar projects.

- (1) As used in this section:
 - (a) "Active solar system" means the same as that term is defined in Section 59-10-1014.
 - (b) "Office" means the Office of Energy Development created in Section 79-6-401.

- (c) "Purchaser" means a claimant, estate, or trust that purchases one or more solar units from a qualifying political subdivision.
 - (d) "Qualifying political subdivision" means:
 - (i) a city or town in this state;
 - (ii) an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act; or
 - (iii) a special service district created under Title 17D, Chapter 1, Special Service District Act.
 - (e) "Qualifying solar project" means the portion of an active solar system:
 - (i) that a qualifying political subdivision:
 - (A) constructs;
 - (B) controls; or
 - (C) owns;
 - (ii) with respect to which the qualifying political subdivision sells one or more solar units; and
 - (iii) that generates electrical output that is furnished:
 - (A) to one or more residential units; or
 - (B) for the benefit of one or more residential units.
 - (f) "Residential unit" means the same as that term is defined in Section 59-10-1014.
 - (g) "Solar unit" means a portion of the electrical output:
 - (i) of a qualifying solar project;
 - (ii) that a qualifying political subdivision sells to a purchaser; and
 - (iii) the purchase of which requires that the purchaser agree to bear a proportionate share of the expense of the qualifying solar project:
 - (A) in accordance with a written agreement between the purchaser and the qualifying political subdivision;
 - (B) in exchange for a credit on the purchaser's electrical bill; and
 - (C) as determined by a formula established by the qualifying political subdivision.
- (2)
- (a) Subject to Subsections (2)(b) and (3), a purchaser may claim a nonrefundable tax credit equal to the amount stated on a tax credit certificate issued by the office.
 - (b) The maximum tax credit per taxpayer per taxable year is the lesser of:
 - (i) 25% of the amount that the purchaser pays to purchase one or more solar units during the taxable year; and
 - (ii) \$2,000.
- (3)
- (a) To claim a tax credit under this section, a purchaser shall receive a tax credit certificate from the office.
 - (b) The purchaser shall submit, with the purchaser's application for a tax credit certificate, proof of the purchaser's purchase of one or more solar units.
 - (c) If the office determines that the purchaser purchased one or more solar units during the taxable year, the office shall:
 - (i) determine the amount of the purchaser's tax credit; and
 - (ii) issue, on a form approved by the commission, a tax credit certificate to the purchaser that states the amount of the purchaser's tax credit.
 - (d) If the office determines that a claimant, estate, or trust requesting a tax credit certificate is not eligible for a tax credit certificate under this section but may be eligible for a tax credit certificate under Section 59-10-1014, the office shall treat the claimant, estate, or trust as applying for a written certification in accordance with Section 59-10-1014.

- (e) A purchaser who receives a tax credit certificate shall retain the tax credit certificate for the same time period that a person is required to keep books and records under Section 59-1-1406.
- (f) The office shall submit to the commission an electronic list that includes:
 - (i) the name and identifying information of each purchaser to whom the office issued a certificate; and
 - (ii) for each claimant, estate, or trust:
 - (A) the amount of the tax credit listed on the written certification; and
 - (B) the date or dates the claimant, estate, or trust purchased one or more solar units.
- (4) A purchaser may carry forward a tax credit under this section for a period that does not exceed the next four taxable years if:
 - (a) the purchaser is allowed to claim a tax credit under this section for a taxable year; and
 - (b) the amount of the tax credit exceeds the purchaser's tax liability under this chapter for that taxable year.
- (5) Subject to Section 59-10-1014, a tax credit under this section is in addition to any other tax credit allowed by this chapter.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to govern the application process for receiving a tax credit certificate.

Amended by Chapter 280, 2021 General Session

59-10-1025 Nonrefundable tax credit for investment in certain life science establishments.

- (1) As used in this section:
 - (a) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.
 - (b) "Eligible claimant, estate, or trust" means the same as that term is defined in Section 63N-2-802.
 - (c) "Life science establishment" means an establishment primarily engaged in the development or manufacture of products in one or more of the following categories:
 - (i) biotechnologies;
 - (ii) medical devices;
 - (iii) medical diagnostics; and
 - (iv) pharmaceuticals.
 - (d) "Office" means the Governor's Office of Economic Opportunity.
 - (e) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.
 - (f) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.
 - (g) "Qualifying ownership interest" means an ownership interest that is:
 - (i)
 - (A) common stock;
 - (B) preferred stock; or
 - (C) an ownership interest in a pass-through entity;
 - (ii) originally issued to:
 - (A) an eligible claimant, estate, or trust; or
 - (B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit under this section was a pass-through entity taxpayer of the pass-through entity on the day on which the qualifying ownership interest was issued and remains a pass-through entity taxpayer of the pass-through entity until the last day of the taxable year for which the eligible claimant, estate, or trust claims a tax credit under this section; and

- (iii) issued:
 - (A) by a Utah small business corporation;
 - (B) on or after January 1, 2011; and
 - (C) for money or other property, except for stock or securities.
- (h)
 - (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" means the same as that term is defined in Section 59-10-1022.
 - (ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal Revenue Code, is considered to include a pass-through entity.
- (2) Subject to the other provisions of this section, for a taxable year beginning on or after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate issued to the eligible claimant, estate, or trust in accordance with Section 63N-2-808 for that taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase price of a qualifying ownership interest in a Utah small business corporation by the claimant, estate, or trust if:
 - (a) the qualifying ownership interest is issued by a Utah small business corporation that is a life science establishment;
 - (b) the qualifying ownership interest in the Utah small business corporation is purchased for at least \$25,000;
 - (c) the eligible claimant, estate, or trust owned less than 30% of the qualifying ownership interest of the Utah small business corporation at the time of the purchase of the qualifying ownership interest; and
 - (d) on each day of the taxable year in which the purchase of the qualifying ownership interest was made, the Utah small business corporation described in Subsection (2)(a) has at least 50% of its employees in the state.
- (3) Subject to Subsection (4), the tax credit under Subsection (2):
 - (a) may only be claimed by an eligible claimant, estate, or trust:
 - (i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit certificate issued in accordance with Section 63N-2-808; and
 - (ii) subject to obtaining a tax credit certificate for each taxable year as required by Subsection (3)(a)(i), for a period of three taxable years as follows:
 - (A) the tax credit in the taxable year in which the purchase of the qualifying ownership interest was made may not exceed 10% of the purchase price of the qualifying ownership interest;
 - (B) the tax credit in the taxable year after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest; and
 - (C) the tax credit in the taxable year two years after the taxable year described in Subsection (3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership interest; and
 - (b) may not exceed the lesser of:
 - (i) the amount listed on the tax credit certificate issued in accordance with Section 63N-2-808; or
 - (ii) \$350,000 in a taxable year.
- (4) An eligible claimant, estate, or trust may not claim a tax credit under this section for a taxable year if the eligible claimant, estate, or trust:
 - (a) has sold any of the qualifying ownership interest during the taxable year; or
 - (b) does not hold a tax credit certificate for that taxable year that is issued to the eligible claimant, estate, or trust by the office in accordance with Section 63N-2-808.

- (5) If a Utah small business corporation in which an eligible claimant, estate, or trust purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the eligible claimant, estate, or trust may not claim both the tax credit provided in this section and a capital loss on the qualifying ownership interest.
- (6) If an eligible claimant is a pass-through entity taxpayer that files a return under Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax credit under this section on the return filed under Chapter 7, Corporate Franchise and Income Taxes.
- (7) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.
- (8)
 - (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.
 - (b) Except as provided in Subsection (8)(c), for purposes of the study required by this Subsection (8), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:
 - (i) the amount of tax credit that the office grants to each eligible business entity for each taxable year;
 - (ii) the amount of eligible new state tax revenues generated by each eligible product or project;
 - (iii) estimates for each of the next three calendar years of the following:
 - (A) the amount of tax credit that the office will grant;
 - (B) the amount of eligible new state tax revenues that will be generated; and
 - (C) the number of new incremental jobs within the state that will be generated; and
 - (iv) any other information that the Office of the Legislative Fiscal Analyst requests.
 - (c)
 - (i) In providing the information described in Subsection (8)(b), the office shall redact information that identifies a recipient of a tax credit under this section.
 - (ii) If, notwithstanding the redactions made under Subsection (8)(c)(i), reporting the information described in Subsection (8)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (8)(b) in the aggregate for all entities that receive the tax credit under this section.
 - (d) As part of the study required by this Subsection (8), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (8)(b).
 - (e) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (8)(a) include an evaluation of:
 - (i) the cost of the tax credit under this section;
 - (ii) the purpose and effectiveness of the tax credit; and
 - (iii) the extent to which the state benefits from the tax credit.

Amended by Chapter 465, 2019 General Session

59-10-1027 Nonrefundable tax credit for combat related death.

- (1) As used in this section:
 - (a) "Active component of the United States Armed Forces" means active duty service in the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Space Force, or United States Coast Guard.

- (b) "Combat related death" means an individual who dies:
 - (i) on or after January 1, 2010; and
 - (ii)
 - (A) while in military service in a combat zone; or
 - (B) as a result of a wound, disease, or injury the individual incurs while in military service in a combat zone.
 - (c) "Combat zone" means an area that the President of the United States designates by Executive Order as an area in which an active component of the United States Armed Forces or a reserve component of the United States Armed Forces are or have engaged in combat.
 - (d) "Military service in a combat zone" means service:
 - (i) in an active component of the United States Armed Forces or reserve component of the United States Armed Forces; and
 - (ii) performed:
 - (A) on or after the date the President of the United States designates by Executive Order as the date combatant activities begin in a combat zone; and
 - (B) on or before the date the President of the United States designates by Executive Order as the date combatant activities terminate in a combat zone.
 - (e) "Reserve component of the United States Armed Forces" means service in a reserve component of the armed forces listed in 10 U.S.C. Sec. 101(c) or 10 U.S.C. Sec. 10101.
- (2) A claimant, estate, or trust that files a return on behalf of an individual who dies a combat related death may claim a nonrefundable tax credit against that individual's tax liability under this chapter as provided in this section.
- (3) For purposes of Subsection (2), the tax credit is equal to the tax liability of the individual who dies a combat related death for the taxable year during which the individual dies.

Amended by Chapter 93, 2021 General Session

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.
 - (b) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.
 - (c) "Long-term capital loss" is as 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) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.
 - (f) "Short-term capital gain" is as 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).
- (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.

Amended by Chapter 367, 2021 General Session

59-10-1029 Nonrefundable alternative energy development tax credit.

- (1) As used in this section:
 - (a) "Alternative energy entity" means the same as that term is defined in Section 79-6-502.
 - (b) "Alternative energy project" means the same as that term is defined in Section 79-6-502.
 - (c) "Office" means the Office of Energy Development created in Section 79-6-401.
- (2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy development as provided in this section.
- (3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 79, Chapter 6, Part 5, Alternative Energy Development Tax Credit Act, to the alternative energy entity for the taxable year.
- (4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:
 - (a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and
 - (b) the amount of the tax credit exceeds the alternative energy entity's tax liability under this chapter for that taxable year.
- (5)
 - (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.
 - (b)
 - (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:
 - (A) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;
 - (B) the new state revenues generated by each alternative energy project;
 - (C) the information contained in the office's latest report under Section 79-6-505; and
 - (D) any other information that the Office of the Legislative Fiscal Analyst requests.
 - (ii)
 - (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.
 - (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all alternative energy entities that receive the tax credit under this section.
 - (c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).

- (d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:
 - (i) the cost of the tax credit to the state;
 - (ii) the purpose and effectiveness of the tax credit; and
 - (iii) the extent to which the state benefits from the tax credit.
- (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (2) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 59-10-1106.

Amended by Chapter 482, 2023 General Session

59-10-1031 Nonrefundable tax credit for employing a recently deployed veteran.

- (1) As used in this section, "recently deployed veteran" means an individual who:
 - (a) was mobilized to active federal military service in:
 - (i) an active component of the United States Armed Forces as defined in Section 59-10-1027; or
 - (ii) a reserve component of the United States Armed Forces as defined in Section 59-10-1027; and
 - (b) received an honorable or general discharge from active federal military service under Subsection (1)(a) within the two-year period before the date the employment begins.
- (2) A claimant, estate, or trust may claim a nonrefundable tax credit as provided in this section against a tax under this chapter if the claimant, estate, or trust employs a recently deployed veteran, on or after January 1, 2012, who:
 - (a)
 - (i) is collecting or is eligible to collect unemployment benefits under Title 35A, Chapter 4, Part 4, Benefits and Eligibility; or
 - (ii) within the last two years, has exhausted the unemployment benefits under Subsection (2)(a)(i); and
 - (b) works for the claimant, estate, or trust at least 35 hours per week for not less than 45 of the 52 weeks following the recently deployed veteran's start date for the employment.
- (3) A tax credit:
 - (a) earned under this section shall be claimed beginning in the year the requirements of Subsection (2) are met;
 - (b) for the first taxable year, is equal to \$200 for each month of employment not to exceed \$2,400 for the taxable year for each recently deployed veteran; and
 - (c) for the second taxable year, is equal to \$400 for each month of employment not to exceed \$4,800 for the taxable year for each recently deployed veteran.
- (4) A claimant, estate, or trust that claims a tax credit under this section shall retain the following for each recently deployed veteran for which a tax credit is claimed under this section:
 - (a) the recently deployed veteran's:
 - (i) name;
 - (ii) taxpayer identification number;
 - (iii) last known address;
 - (iv) start date of the employment; and
 - (v) documentation establishing that the recently deployed veteran was employed as required under Subsection (2)(b);
 - (b) documentation provided by the recently deployed veteran's military service unit establishing that the recently deployed veteran is a recently deployed veteran; and

- (c) a signed statement from the Department of Workforce Services that the recently deployed veteran meets the requirements of Subsection (2)(a) regarding unemployment benefits.
- (5) At the request of the commission, a claimant, estate, or trust shall provide the information described in Subsection (4) to the commission.
- (6) A claimant, estate, or trust may carry forward a tax credit under this section for a period that does not exceed the next five taxable years if:
 - (a) the claimant, estate, or trust is allowed to claim a tax credit under this section for a taxable year; and
 - (b) the amount of the tax credit exceeds the claimant, estate, or trust's tax liability under this chapter for that taxable year.

Enacted by Chapter 306, 2012 General Session

59-10-1032 Nonrefundable tax credit for employment of a person who is homeless.

- (1) As used in this section:
 - (a) "Eligible employer" means a person who receives a tax credit certificate from the Department of Workforce Services in accordance with Title 35A, Chapter 5, Part 3, Tax Credit for Employment of Persons Who Are Homeless Act.
 - (b) "Person who is homeless" is as defined in Section 35A-5-302.
- (2) Subject to the other provisions of this section, an eligible employer that is a claimant, estate, or trust may claim a nonrefundable tax credit as provided in this section against a tax under this chapter.
- (3) The tax credit under this section is the amount of tax credit listed on a tax credit certificate that the Department of Workforce Services issues to an employer for a taxable year under Title 35A, Chapter 5, Part 3, Tax Credit for Employment of Persons Who Are Homeless Act.
- (4) An eligible employer may carry forward a tax credit under this section for a period that does not exceed the next five taxable years if:
 - (a) the eligible employer is allowed to claim a tax credit under this section; and
 - (b) the amount of the tax credit exceeds the eligible employer's tax liability under this chapter for that taxable year.
- (5) An eligible employer shall retain a tax credit certificate the eligible employer receives from the Department of Workforce Services for the same time period a person is required to keep books and records under Section 59-1-1406.

Enacted by Chapter 315, 2014 General Session

59-10-1033.1 Tax credit related to alternative fuel heavy duty vehicles.

- (1) As used in this section:
 - (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.
 - (b) "Director" means the director of the Division of Air Quality appointed under Section 19-2-107.
 - (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.
 - (d) "Natural gas" includes compressed natural gas and liquified natural gas.
 - (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:
 - (i) has never been titled or registered and has been driven less than 7,500 miles; and
 - (ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric drivetrain.
 - (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.
 - (g) "Qualified taxpayer" means a claimant, estate, or trust that:

- (i) purchases a qualified heavy duty vehicle; and
 - (ii) receives a tax credit certificate from the director.
 - (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and owned by a single claimant, estate, or trust.
 - (i) "Tax credit certificate" means a certificate issued by the director certifying that a claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the amount of the tax credit.
- (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter:
- (a) in an amount equal to:
 - (i) \$15,000, if the qualified purchase occurs during calendar year 2021;
 - (ii) \$13,500, if the qualified purchase occurs during calendar year 2022;
 - (iii) \$12,000, if the qualified purchase occurs during calendar year 2023;
 - (iv) \$10,500, if the qualified purchase occurs during calendar year 2024;
 - (v) \$9,000, if the qualified purchase occurs during calendar year 2025;
 - (vi) \$7,500, if the qualified purchase occurs during calendar year 2026;
 - (vii) \$6,000, if the qualified purchase occurs during calendar year 2027;
 - (viii) \$4,500, if the qualified purchase occurs during calendar year 2028;
 - (ix) \$3,000, if the qualified purchase occurs during calendar year 2029; and
 - (x) \$1,500, if the qualified purchase occurs during calendar year 2030; and
 - (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase will travel annually will be within the state.
- (3)
- (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not submit an application for, and the director may not issue to the claimant, estate, or trust, a tax credit certificate under this section in any taxable year for a qualified purchase if the director has already issued tax credit certificates to the claimant, estate, or trust for 10 qualified purchases in the same taxable year.
 - (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit an application for, and the director may issue to the claimant, estate, or trust, one or more tax credit certificates for up to eight additional qualified purchases, even if the director has already issued to that claimant, estate, or trust tax credit certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).
- (4)
- (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits available under this section for qualified taxpayers with a small fleet.
 - (b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an application for, or the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved under Subsection (4)(a).
- (5)
- (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and Section 59-7-618.1 may not exceed \$500,000.
 - (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process under which a claimant, estate, or trust may reserve a potential tax credit under this section for a limited time to allow the claimant, estate, or trust to make a qualified purchase with the assurance that the aggregate limit under Subsection (5)

- (a) will not be met before the claimant, estate, or trust is able to submit an application for a tax credit certificate.
- (6)
 - (a)
 - (i) A claimant, estate, or trust wishing to claim a tax credit under this section shall, using forms the board requires by rule:
 - (A) submit to the director an application for a tax credit;
 - (B) provide the director proof of a qualified purchase; and
 - (C) submit to the director the certification under oath required under Subsection (2)(b).
 - (ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the director shall provide the claimant, estate, or trust a written statement from the director acknowledging receipt of the proof.
 - (b) If the director determines that a claimant, estate, or trust qualifies for a tax credit under this section, the director shall:
 - (i) determine the amount of tax credit the claimant, estate, or trust is allowed under this section; and
 - (ii) provide the claimant, estate, or trust with a written tax credit certificate:
 - (A) stating that the claimant, estate, or trust has qualified for a tax credit; and
 - (B) showing the amount of tax credit for which the claimant, estate, or trust has qualified under this section.
 - (c) A qualified taxpayer shall retain the tax credit certificate.
 - (d) The director shall at least annually submit to the commission a list of all qualified taxpayers to which the director has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.
- (7) The tax credit under this section is allowed only:
 - (a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;
 - (b) for the taxable year in which the qualified purchase occurs; and
 - (c) once per vehicle.
- (8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.
- (9) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

Enacted by Chapter 371, 2021 General Session

59-10-1034 Nonrefundable high cost infrastructure development tax credit.

- (1) As used in this section:
 - (a) "High cost infrastructure project" means the same as that term is defined in Section 79-6-602.
 - (b) "Infrastructure cost-burdened entity" means the same as that term is defined in Section 79-6-602.
 - (c) "Infrastructure-related revenue" means the same as that term is defined in Section 79-6-602.
 - (d) "Office" means the Office of Energy Development created in Section 79-6-401.
- (2) Subject to the other provisions of this section, a claimant, estate, or trust that is an infrastructure cost-burdened entity may claim a nonrefundable tax credit for development of a high cost infrastructure project as provided in this section.

- (3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act, to the infrastructure cost-burdened entity for the taxable year.
- (4) An infrastructure cost-burdened entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:
 - (a) the infrastructure cost-burdened entity is allowed to claim a tax credit under this section for a taxable year; and
 - (b) the amount of the tax credit exceeds the infrastructure cost-burdened entity's tax liability under this chapter for that taxable year.
- (5)
 - (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.
 - (b)
 - (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst:
 - (A) the amount of tax credit that the office grants to each infrastructure cost-burdened entity for each taxable year;
 - (B) the infrastructure-related revenue generated by each high cost infrastructure project;
 - (C) the information contained in the office's latest report under Section 79-6-605; and
 - (D) any other information that the Office of the Legislative Fiscal Analyst requests.
 - (ii)
 - (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.
 - (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all infrastructure cost-burdened entities that receive the tax credit under this section.
 - (c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).
 - (d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:
 - (i) the cost of the tax credit to the state;
 - (ii) the purpose and effectiveness of the tax credit; and
 - (iii) the extent to which the state benefits from the tax credit.

Amended by Chapter 64, 2021 General Session

Amended by Chapter 280, 2021 General Session, (Coordination Clause)

Amended by Chapter 280, 2021 General Session

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
 - (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
 - (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 tax credit under this section may not be carried forward or carried back.

Amended by Chapter 367, 2021 General Session

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 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:
 - (a) the amount of survivor benefits that the surviving spouse or dependent child received during the taxable year; and
 - (b) the percentage listed in Subsection 59-10-104(2).
- (4) The tax credit described in Subsection (2):
 - (a) may not be carried forward or carried back; and
 - (b) applies to a taxable year beginning on or after January 1, 2017.

Amended by Chapter 367, 2021 General Session

59-10-1037 Nonrefundable enterprise zone tax credit.

- (1) As used in this section:
 - (a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

- (b) "Office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.
- (2) Subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.
- (3) The enterprise zone tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.
- (4) A business entity may carry forward a tax credit under this section for a period that does not exceed the next three taxable years, if the amount of the tax credit exceeds the business entity's tax liability under this chapter for that taxable year.
- (5) A business entity may not claim or carry forward a tax credit under this part for a taxable year during which the business entity has claimed the targeted business income tax credit under Section 59-10-1112.
- (6)
 - (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.
 - (b)
 - (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by this Subsection (6), the office shall provide by electronic means the following information, if available to the office, for each calendar year to the Office of the Legislative Fiscal Analyst:
 - (A) the amount of tax credits provided in each development zone;
 - (B) the number of new full-time employee positions reported to obtain tax credits in each development zone;
 - (C) the amount of tax credits awarded for rehabilitating a building in each development zone;
 - (D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;
 - (E) the information related to the tax credit contained in the office's latest report under Section 63N-1a-306; and
 - (F) other information that the Office of the Legislative Fiscal Analyst requests.
 - (ii)
 - (A) In providing the information described in Subsection (6)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.
 - (B) If, notwithstanding the redactions made under Subsection (6)(b)(ii)(A), reporting the information described in Subsection (6)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (6)(b)(i) in the aggregate for all development zones that receive the tax credit under this section.
 - (c) As part of the study required by this Subsection (6), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (6)(b).
 - (d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (6)(a) include an evaluation of:
 - (i) the cost of the tax credit to the state;
 - (ii) the purpose and effectiveness of the tax credit; and
 - (iii) the extent to which the state benefits from the tax credit.

Amended by Chapter 282, 2021 General Session

59-10-1038 Nonrefundable rural job creation tax credit.

- (1) As used in this section, "office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.
- (2) Subject to the other provisions of this section, a taxpayer may claim a nonrefundable tax credit for rural job creation as provided in this section.
- (3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63N, Chapter 4, Part 3, Utah Rural Jobs Act, to the taxpayer for the taxable year.
- (4) If the amount of a tax credit under this section exceeds the taxpayer's tax liability under this chapter for the taxable year in which the taxpayer claims the tax credit, the taxpayer may carry forward the tax credit for:
 - (a) the next seven taxable years, if the credit-eligible contribution as defined in Section 63N-4-302 is made before November 1, 2022; or
 - (b) the next four taxable years, if the credit-eligible contribution as defined in Section 63N-4-302 is made on or after November 1, 2022.

Amended by Chapter 195, 2022 General Session

59-10-1041 Nonrefundable tax credit for a donation to the Carson Smith Opportunity Scholarship Program.

- (1) Except as provided in Subsection (3), a claimant, estate, or trust that makes a donation to the Carson Smith Opportunity Scholarship Program established in Section 53E-7-402 may claim a nonrefundable tax credit equal to 100% of the amount stated on a tax credit certificate issued in accordance with Section 53E-7-407.
- (2) If the amount of a tax credit listed on the tax credit certificate exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust:
 - (a) may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years; and
 - (b) may carry back the amount of the tax credit that exceeds the claimant's, estate's, or trust's tax liability to the previous taxable year.
- (3) A claimant, estate, or trust may not claim a credit described in Subsection (1) to the extent the claimant, estate, or trust claims a donation described in Subsection (1) as an itemized deduction on the claimant's, estate's, or trust's federal individual income tax return for that taxable year.

Amended by Chapter 466, 2024 General Session

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:
 - (a) the percentage listed in Subsection 59-10-104(2); and
 - (b) the claimant's social security benefit that is included in adjusted gross income on the claimant's federal income tax return for the taxable year.
- (3) A claimant may not:
 - (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
 - (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.
- (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by \$.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:
 - (a) for a federal individual income tax return that is allowed a married filing separately status, \$37,500;
 - (b) for a federal individual income tax return that is allowed a single filing status, \$45,000;
 - (c) for a federal individual income tax return that is allowed a head of household filing status, \$75,000; or
 - (d) for a return under this chapter that is allowed a joint filing status, \$75,000.
- (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.

Amended by Chapter 459, 2023 General Session

59-10-1043 Nonrefundable tax credit for military retirement.

- (1) As used in this section:
 - (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.
 - (ii) "Military retirement pay" does not include:
 - (A) Social Security income;
 - (B) 401(k) or IRA distributions; or

- (C) income from other sources.
- (b) "Survivor benefits" means the retired pay portion of the benefits described in 10 U.S.C. Secs. 1447 through 1455.
- (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:
 - (a) the percentage listed in Subsection 59-10-104(2); and
 - (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.
- (3) A claimant may not:
 - (a) carry forward or carry back the amount of a tax credit that exceeds the claimant's tax liability for the taxable year; or
 - (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.

Amended by Chapter 258, 2022 General Session

59-10-1044 Nonrefundable earned income tax credit.

- (1) As used in this section:
 - (a) "Federal earned income tax credit" means the federal earned income tax credit described in Section 32, Internal Revenue Code.
 - (b) "Qualifying claimant" means a resident or nonresident individual who:
 - (i) qualifies for and claims the federal earned income tax credit for the current taxable year; and
 - (ii) earns income in Utah that is reported on a W-2 form.
- (2) Subject to Section 59-10-1002.2, a qualifying claimant may claim a nonrefundable earned income tax credit equal to the lesser of:
 - (a) 20% of the amount of the federal earned income tax credit that the qualifying claimant was entitled to claim on a federal income tax return for the current taxable year; and
 - (b) the total Utah wages reported on the qualifying claimant's W-2 form for the current taxable year.
- (3) A qualifying claimant may not carry forward or carry back the amount of the earned income tax credit that exceeds the qualifying claimant's tax liability.

Amended by Chapter 459, 2023 General Session

59-10-1045 Nonrefundable tax credit for taxes paid by pass-through entity.

- (1) As used in this section, "taxed pass-through entity taxpayer" means a resident or nonresident individual who:
 - (a) has income attributed to the individual by a pass-through entity;
 - (b) receives the income described in Subsection (1)(a) after the pass-through entity pays the tax described in Subsection 59-10-1403.2(2); and
 - (c) adds the amount of tax paid on the income described in Subsection (1)(a) to adjusted gross income in accordance with Subsection 59-10-114(1)(i).
- (2)
 - (a) A taxed pass-through entity taxpayer may claim a nonrefundable tax credit for the taxes imposed under Subsection 59-10-1403.2(2).
 - (b) The tax credit is equal to the amount of the tax paid under Subsection 59-10-1403.2(2) by the pass-through entity on the income attributed to the taxed pass-through entity taxpayer.
- (3)

- (a) A taxed pass-through entity taxpayer may carry forward the amount of the tax credit that exceeds the taxed pass-through entity taxpayer's tax liability for a period that does not exceed the next five taxable years.
- (b) A taxed pass-through entity taxpayer may not carry back the amount of the tax credit that exceeds the taxed pass-through entity taxpayer's tax liability for the taxable year.

Amended by Chapter 470, 2023 General Session

59-10-1046 Nonrefundable adoption expense tax credit.

(1) As used in this section:

- (a) "Adoption expense" means a reasonable and necessary adoption fee, court cost, attorney fee, or other expense that is:
 - (i) directly related to, and for the primary purpose of, adoption of a qualifying child through a domestic adoption;
 - (ii) not incurred in violation of federal or state law or in carrying out any surrogate parenting arrangement; and
 - (iii) not paid or reimbursed by any employer or state assistance program.
- (b) "Domestic adoption" means an adoption of a child who is a United States citizen or a resident of the United States or its possessions before the adoption effort begins.
- (c)
 - (i) "Qualifying child" means an individual who is under 18 years old.
 - (ii) "Qualifying child" does not include an individual who is a child of the claimant's spouse.
- (d) "Qualifying claimant" means a claimant:
 - (i) whose adjusted gross income on a federal tax return is:
 - (A) for a claimant who files the federal tax return jointly with the claimant's spouse, \$55,000 or more but less than \$110,000; or
 - (B) for a claimant who files the federal tax return other than jointly, \$27,500 or more but less than \$55,000;
 - (ii) who did not, and if the claimant is married, whose spouse did not, receive state or federal assistance during the taxable year in which the adoption is finalized; and
 - (iii) who applies for and receives a certification described in Section 35A-1-111 from the Department of Workforce Services.
- (e)
 - (i) "State or federal assistance" means public funds that are:
 - (A) expended for the benefit of an individual in need of financial, medical, food, housing, or related assistance;
 - (B) means tested; and
 - (C) provided by a state or the federal government.
 - (ii) "State or federal assistance" includes:
 - (A) the Medicaid program, as defined in Section 26B-3-101;
 - (B) the Employment Support Act described in Title 35A, Chapter 3, Employment Support Act;
 - (C) the Children's Health Insurance Program created in Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program;
 - (D) the Supplemental Nutrition Assistance Program established in 7 U.S.C. Chapter 51, Supplemental Nutrition Assistance Program;
 - (E) the Women, Infants, and Children Program established in 42 U.S.C. Sec. 1786;
 - (F) the federal Social Security Act; and
 - (G) housing assistance.

- (iii) "State or federal assistance" does not include an income tax credit, subtraction, or deduction.
- (2) Subject to Section 59-10-1002.2, a qualifying claimant may claim, in the taxable year in which the adoption is finalized, a nonrefundable tax credit equal to the lesser of:
 - (a) \$3,500; or
 - (b) the amount of the qualifying claimant's adoption expenses.
- (3) A qualifying claimant may carry forward, to the next three taxable years, the amount of any tax credit that exceeds the qualifying claimant's tax liability for the taxable year.
- (4) A qualifying claimant may not claim a credit under this section to the extent that the qualifying claimant claims a federal tax credit under 26 U.S.C. Sec. 23 for the same adoption expense.
- (5) A qualifying claimant who is married may claim a tax credit under this section only if the qualifying claimant and the qualifying claimant's spouse file a joint federal income tax return.

Enacted by Chapter 460, 2023 General Session

Superseded 1/1/2025

59-10-1047 Nonrefundable child tax credit.

- (1) As used in this section:
 - (a) "Joint filing status" means the same as that term is defined in Section 59-10-1018.
 - (b) "Head of household 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 federal individual income tax return 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) "Qualifying child" means an individual:
 - (i) with respect to whom the claimant is allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year; and
 - (ii) who is at least one year old and younger than four years old on the last day of the claimant's taxable year.
 - (f) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.
- (2) Subject to Subsection 59-10-1002.2, a claimant may claim a nonrefundable tax credit of \$1,000 for each qualifying child.
- (3) A claimant may not carry forward or carry back the amount of the tax credit that exceeds the claimant's tax liability.

- (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by \$.10 for each dollar by which modified adjusted gross income for purposes of the return exceeds:
- (a) for a federal individual income tax return that is allowed a married filing separately status, \$27,000;
 - (b) for a federal individual income tax return that is allowed a single filing status or head of household filing status, \$43,000; and
 - (c) for a federal individual income tax return under this chapter that is allowed a joint filing status, \$54,000.

Enacted by Chapter 462, 2023 General Session

Effective 1/1/2025

59-10-1047 Nonrefundable child tax credit.

- (1) As used in this section:
- (a) "Joint filing status" means the same as that term is defined in Section 59-10-1018.
 - (b) "Head of household 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 federal individual income tax return 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) "Qualifying child" means an individual:
 - (i) with respect to whom the claimant is allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year; and
 - (ii) who is at least one year old and younger than five years old on the last day of the claimant's taxable year.
 - (f) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.
- (2) Subject to Subsection 59-10-1002.2, a claimant may claim a nonrefundable tax credit of \$1,000 for each qualifying child.
- (3) A claimant may not carry forward or carry back the amount of the tax credit that exceeds the claimant's tax liability.
- (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by \$.10 for each dollar by which modified adjusted gross income for purposes of the return exceeds:
- (a) for a federal individual income tax return that is allowed a married filing separately status, \$27,000;

- (b) for a federal individual income tax return that is allowed a single filing status or head of household filing status, \$43,000; and
- (c) for a federal individual income tax return that is allowed a joint filing status, \$54,000.

Amended by Chapter 235, 2024 General Session

Part 11

Refundable Tax Credit Act

59-10-1101 Title.

This part is known as the "Refundable Tax Credit Act."

Enacted by Chapter 223, 2006 General Session

59-10-1102 Definitions.

As used in this part:

- (1)
 - (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1103(1)(a), "claimant" means a resident or nonresident person.
 - (b) "Claimant" does not include an estate or trust.
- (2) Except as provided in Subsection 59-10-1103(1)(a), "estate" means a nonresident estate or a resident estate.
- (3) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or trust may claim:
 - (a) as provided by statute; and
 - (b) regardless of whether the claimant, estate, or trust has a tax liability under this chapter for a taxable year.
- (4) Except as provided in Subsection 59-10-1103(1)(a), "trust" means a nonresident trust or a resident trust.

Enacted by Chapter 223, 2006 General Session

59-10-1102.1 Apportionment of tax credit.

A nonresident individual or a part-year resident individual who claims a tax credit in accordance with Section 59-10-1114 may claim only an apportioned amount of the tax credit equal to the product of:

- (1) the state income tax percentage for the nonresident individual or the state income tax percentage for the part-year resident individual; and
- (2) the amount of the tax credit that the nonresident individual or the part-year resident individual would have been allowed to claim but for the apportionment requirement of this section.

Enacted by Chapter 460, 2023 General Session

59-10-1103 Tax credit for pass-through entity taxpayer.

- (1) As used in this section:
 - (a) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

- (b) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.
- (2) A pass-through entity taxpayer may claim a refundable tax credit against the tax otherwise due under this chapter if that pass-through entity taxpayer is a:
 - (a) claimant;
 - (b) estate; or
 - (c) trust.
- (3) The tax credit described in Subsection (2) is equal to the amount paid or withheld by the pass-through entity on behalf of the pass-through entity taxpayer described in Subsection (2) in accordance with Section 59-10-1403.2, other than a tax described in Subsection 59-10-1403.2(2).
- (4) A pass-through entity taxpayer may not claim a tax credit under this section for an amount for which the pass-through entity taxpayer claims a tax credit under Section 59-7-614.4.

Amended by Chapter 238, 2022 General Session

59-10-1105 Tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Income Tax Fund -- Rulemaking authority.

- (1) For a taxable year beginning on or after January 1, 2004, a claimant, estate, or trust may claim a refundable tax credit:
 - (a) as provided in this section;
 - (b) against taxes otherwise due under this chapter; and
 - (c) in an amount equal to the amount of tax the claimant, estate, or trust pays:
 - (i) on a purchase of a hand tool:
 - (A) if the purchase is made on or after July 1, 2004;
 - (B) if the hand tool is used or consumed primarily and directly in a farming operation in the state; and
 - (C) if the unit purchase price of the hand tool is more than \$250; and
 - (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).
- (2) A claimant, estate, or trust:
 - (a) shall retain the following to establish the amount of tax the claimant, estate, or trust paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i):
 - (i) a receipt;
 - (ii) an invoice; or
 - (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and
 - (b) may not carry forward or carry back a tax credit under this section.
- (3)
 - (a) In accordance with any rules prescribed by the commission under Subsection (3)(b):
 - (i) the commission shall make a refund to a claimant, estate, or trust that claims a tax credit under this section if the amount of the tax credit exceeds the claimant's, estate's, or trust's tax liability under this chapter; and
 - (ii) the Division of Finance shall transfer at least annually from the General Fund into the Income Tax Fund an amount equal to the aggregate amount of all tax credits claimed under this section.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:
 - (i) a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i); or

- (ii) transfers from the General Fund into the Income Tax Fund as required by Subsection (3)(a)(ii).

Amended by Chapter 456, 2022 General Session

59-10-1106 Refundable clean energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

- (1) As used in this section:
 - (a) "Active solar system" means the same as that term is defined in Section 59-10-1014.
 - (b) "Biomass system" means the same as that term is defined in Section 59-10-1014.
 - (c) "Commercial energy system" means the same as that term is defined in Section 59-7-614.
 - (d) "Commercial enterprise" means the same as that term is defined in Section 59-7-614.
 - (e) "Commercial unit" means the same as that term is defined in Section 59-7-614.
 - (f) "Direct use geothermal system" means the same as that term is defined in Section 59-10-1014.
 - (g) "Geothermal electricity" means the same as that term is defined in Section 59-10-1014.
 - (h) "Geothermal energy" means the same as that term is defined in Section 59-10-1014.
 - (i) "Geothermal heat pump system" means the same as that term is defined in Section 59-10-1014.
 - (j) "Hydroenergy system" means the same as that term is defined in Section 59-10-1014.
 - (k) "Hydrogen production system" means the same as that term is defined in Section 59-7-614.
 - (l) "Office" means the Office of Energy Development created in Section 79-6-401.
 - (m) "Passive solar system" means the same as that term is defined in Section 59-10-1014.
 - (n) "Principal recovery portion" means the same as that term is defined in Section 59-10-1014.
 - (o) "Wind system" means the same as that term is defined in Section 59-10-1014.
- (2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.
- (3)
 - (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (3) with respect to a commercial energy system if:
 - (i) the commercial energy system does not use:
 - (A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or
 - (B) solar equipment capable of producing 2,000 or more kilowatts of electricity;
 - (ii) the claimant, estate, or trust purchases or participates in the financing of the commercial energy system;
 - (iii)
 - (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or
 - (B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;
 - (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (3); and
 - (v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).
 - (b)

- (i) Subject to Subsections (3)(b)(ii) through (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.
 - (ii) A tax credit under this Subsection (3) may include installation costs.
 - (iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (3) for the taxable year in which the commercial energy system is completed and placed in service.
 - (iv) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed \$50,000 per commercial unit.
- (c)
- (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.
 - (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.
 - (iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.
- (4)
- (a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:
 - (i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;
 - (ii)
 - (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or
 - (B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;
 - (iii) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (4); and
 - (iv) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).
 - (b)
 - (i) Subject to Subsection (4)(b)(ii), a tax credit under this Subsection (4) is equal to the product of:
 - (A) 0.35 cents; and
 - (B) the kilowatt hours of electricity produced and used or sold during the taxable year.
 - (ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.
 - (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.
- (5)
- (a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (5) if:
 - (i) the claimant, estate, or trust owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

- (ii)
 - (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or
 - (B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;
 - (iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);
 - (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (5); and
 - (v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).
- (b)
- (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to the product of:
 - (A) 0.35 cents; and
 - (B) the kilowatt hours of electricity produced and used or sold during the taxable year.
 - (ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.
- (c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.
- (6)
- (a) A claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (6) if:
 - (i) the claimant, estate, or trust owns a hydrogen production system;
 - (ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;
 - (iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the hydrogen production system;
 - (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (3), (4), or (5) for electricity used to meet the requirements of this Subsection (6); and
 - (v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).
 - (b)
 - (i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6) is equal to the product of:
 - (A) \$0.12; and
 - (B) the number of kilograms of hydrogen produced during the taxable year.
 - (ii) A claimant, estate, or trust may not receive a tax credit under this Subsection (6) for more than 5,600 metric tons of hydrogen per taxable year.
 - (iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (6) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.
- (7)

- (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.
- (b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:
 - (i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and
 - (ii) the commercial energy system or the hydrogen production system with respect to which the claimant, estate, or trust seeks to claim a tax credit:
 - (A) has been completely installed;
 - (B) is a viable system for saving or producing energy from clean resources; and
 - (C) is safe, reliable, efficient, and technically feasible to ensure that the commercial energy system or the hydrogen production system uses the state's clean and nonrenewable resources in an appropriate and economic manner.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:
 - (i) for determining whether a commercial energy system or a hydrogen production system meets the requirements of Subsection (7)(b)(ii); and
 - (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a commercial energy system, as an amount per unit of energy production.
- (d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.
- (e) The office 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 office issues a written certification; and
 - (ii) for each claimant, estate, or trust:
 - (A) the amount of the tax credit listed on the written certification; and
 - (B) the date the commercial energy system or the hydrogen production system was installed.
- (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.
- (9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.
- (10) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.
- (11) A claimant, estate, or trust may not claim or carry forward a tax credit described in this section in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 59-10-1029.

Amended by Chapter 53, 2024 General Session

59-10-1107 Refundable economic development tax credit.

- (1) As used in this section:
 - (a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as defined in Section 63N-2-103.
 - (b) "Incremental job" means the same as that term is defined in Section 63N-1a-102.
 - (c) "New state revenue" means the same as that term is defined in Section 63N-1a-102.
 - (d) "Office" means the Governor's Office of Economic Opportunity.

- (2) Subject to the other provisions of this section, a business entity may claim a refundable tax credit for economic development.
- (3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.
- (4)
 - (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a business entity that claims a tax credit under this section if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity as required by Subsection (4)(a).
- (5)
 - (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.
 - (b) Except as provided in Subsection (5)(c), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Revenue and Taxation Interim Committee by electronic means:
 - (i) the amount of tax credit the office grants to each taxpayer for each calendar year;
 - (ii) the criteria the office uses in granting a tax credit;
 - (iii) the new state revenue generated by each taxpayer for each calendar year;
 - (iv) estimates for each of the next three calendar years of the following:
 - (A) the amount of tax credits that the office will grant;
 - (B) the amount of new state revenue that will be generated; and
 - (C) the number of new incremental jobs within the state that will be generated;
 - (v) the information contained in the office's latest report under Section 63N-2-106; and
 - (vi) any other information that the Revenue and Taxation Interim Committee requests.
 - (c)
 - (i) In providing the information described in Subsection (5)(b), the office shall redact information that identifies a recipient of a tax credit under this section.
 - (ii) If, notwithstanding the redactions made under Subsection (5)(c)(i), reporting the information described in Subsection (5)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b) in the aggregate for all taxpayers that receive the tax credit under this section.
 - (d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:
 - (i) the cost of the tax credit to the state;
 - (ii) the purpose and effectiveness of the tax credit; and
 - (iii) the extent to which the state benefits from the tax credit.

Amended by Chapter 282, 2021 General Session

59-10-1108 Refundable motion picture tax credit.

- (1) As used in this section:
 - (a) "Motion picture company" means a claimant, estate, or trust that meets the definition of a motion picture company under Section 63N-8-102.

- (b) "Office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.
- (c) "State-approved production" means the same as that term is defined in Section 63N-8-102.
- (2) For a taxable year beginning on or after January 1, 2009, a motion picture company may claim a refundable tax credit for a state-approved production.
- (3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to a motion picture company under Section 63N-8-103 for the taxable year.
- (4)
 - (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a motion picture company that claims a tax credit under this section if the amount of the tax credit exceeds the motion picture company's tax liability for the taxable year.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a motion picture company as required by Subsection (4)(a).
- (5)
 - (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.
 - (b)
 - (i) Except as provided in Subsection (5)(b)(ii), for purposes of the study required by this Subsection (5), the office shall provide the following information, if available to the office, to the Office of the Legislative Fiscal Analyst by electronic means:
 - (A) the amount of tax credit the office grants to each taxpayer for each calendar year;
 - (B) estimates of the amount of tax credit that the office will grant for each of the next three calendar years;
 - (C) the criteria the office uses in granting a tax credit;
 - (D) the dollars left in the state, as defined in Section 63N-8-102, by each motion picture company for each calendar year;
 - (E) the information contained in the office's latest report under Section 63N-8-105; and
 - (F) any other information that the Office of the Legislative Fiscal Analyst requests.
 - (ii)
 - (A) In providing the information described in Subsection (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.
 - (B) If, notwithstanding the redactions made under Subsection (5)(b)(ii)(A), reporting the information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection (5)(b)(i) in the aggregate for all taxpayers that receive the tax credit under this section.
 - (c) As part of the study required by this Subsection (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection (5)(b).
 - (d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection (5)(a) include an evaluation of:
 - (i) the cost of the tax credit to the state;
 - (ii) the effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Amended by Chapter 282, 2021 General Session

59-10-1111 Refundable tax credit for psychiatrists, psychiatric mental health nurse practitioners, and volunteer retired psychiatrists.

- (1) As used in this section:
 - (a) "Psychiatric mental health nurse practitioner" means the same as that term is defined in Section 58-1-111.
 - (b) "Psychiatrist" means the same as that term is defined in Section 58-1-111.
 - (c) "Tax credit certificate" means a certificate issued by the Division of Professional Licensing under Section 58-1-111 certifying that the claimant is entitled to a tax credit under this section.
 - (d) "Volunteer retired psychiatrist" means the same as that term is defined in Section 58-1-111.
- (2) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner and who submits a tax credit certificate issued by the Division of Professional Licensing under Subsection 58-1-111(3), may claim a refundable tax credit:
 - (a) as provided in this section; and
 - (b) in the amount of \$10,000.
- (3) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner and who submits a tax credit certificate under Subsection 58-1-111(4) may claim a refundable tax credit:
 - (a) as provided in this section; and
 - (b) in the amount of \$10,000.
- (4) A claimant who is a volunteer retired psychiatrist and who submits a tax credit certificate under Subsection 58-1-111(5) may claim a refundable tax credit:
 - (a) as provided in this section; and
 - (b) in the amount of \$10,000.
- (5) A claimant may claim a tax credit under Subsections (2) through (4) for no more than 10 taxable years for each tax credit.
- (6)
 - (a) In accordance with any rules prescribed by the commission under Subsection (6)(b), the commission shall make a refund to a claimant who claims a tax credit under this section if the amount of the tax credit exceeds the claimant's tax liability for the taxable year.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a claimant as required by Subsection (6)(a).

Amended by Chapter 415, 2022 General Session

59-10-1112 Targeted business income tax credit.

- (1) As used in this section, "business applicant" means the same as that term is defined in Section 63N-2-302.
- (2) For a taxable year that begins before January 1, 2023, a business applicant that is certified and issued a targeted business income tax eligibility certificate by the Governor's Office of Economic Opportunity under Section 63N-2-304 may claim a refundable tax credit in the amount specified on the targeted business income tax eligibility certificate.
- (3) For a taxable year for which a business applicant claims a targeted business income tax credit under this section, the business applicant may not claim or carry forward a tax credit under Section 59-7-610, Section 59-10-1007, or Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

Amended by Chapter 264, 2022 General Session

59-10-1113 Refundable tax credit for nonrenewable hydrogen production system.

- (1) As used in this section:
 - (a) "Commercial enterprise" means the same as that term is defined in Section 59-7-626.
 - (b) "Commercial unit" means the same as that term is defined in Section 59-7-626.
 - (c) "Hydrogen production system" means the same as that term is defined in Section 59-7-626.
 - (d) "Office" means the Office of Energy Development created in Section 79-6-401.
- (2)
 - (a) A claimant, estate, or trust may claim a refundable credit under this section if:
 - (i) the claimant, estate, or trust owns a hydrogen production system;
 - (ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;
 - (iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the hydrogen production system;
 - (iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Section 59-10-1106 for electricity used to meet the requirements of this section; and
 - (v) the taxpayer obtains a written certification from the office in accordance with Subsection (3).
 - (b)
 - (i) Subject to Subsections (2)(b)(ii) and (iii), a tax credit under this section is equal to the product of:
 - (A) \$0.12; and
 - (B) the number of kilograms of hydrogen produced during the taxable year.
 - (ii) A claimant, estate, or trust may not receive a tax credit under this section for more than 5,600 metric tons of hydrogen per taxable year.
 - (iii) A claimant, estate, or trust is eligible to claim a tax credit under this section for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.
- (3)
 - (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.
 - (b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:
 - (i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and
 - (ii) the hydrogen production system with respect to which the claimant, estate, or trust seeks to claim a tax credit:
 - (A) has been completely installed; and
 - (B) is safe, reliable, efficient, and technically feasible to ensure that the hydrogen production system uses the state's nonrenewable energy resources in an appropriate and economic manner.
 - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules for determining whether a hydrogen production system meets the requirements of Subsection (3)(b)(ii).

- (d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.
- (e) The office 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 office issues a written certification; and
 - (ii) for each claimant, estate, or trust:
 - (A) the amount of the tax credit listed on the written certification; and
 - (B) the date the hydrogen production system was installed.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.
- (5) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

Amended by Chapter 274, 2022 General Session

59-10-1114 Refundable adoption expense tax credit.

- (1) As used in this section:
 - (a) "Adoption expense" means the same as that term is defined in Section 59-10-1046.
 - (b) "Domestic adoption" means the same as that term is defined in Section 59-10-1046.
 - (c) "Qualifying child" means the same as that term is defined in Section 59-10-1046.
 - (d) "Qualifying claimant" means a claimant:
 - (i) whose adjusted gross income is:
 - (A) for a claimant who files a federal income tax return jointly with the claimant's spouse, less than \$55,000; and
 - (B) for a claimant who files a federal income tax return other than jointly, less than \$27,500;
 - (ii) who did not, and if the claimant is married, whose spouse did not, receive state or federal assistance during the taxable year in which the adoption is finalized; and
 - (iii) who applies for and receives a certification described in Section 35A-1-111 from the Department of Workforce Services.
 - (e) "State or federal assistance" means the same as that term is defined in Section 59-10-1046.
- (2)
 - (a) Subject to Section 59-10-1102.1 and other provisions of this Subsection (2), a qualifying claimant is eligible to claim a refundable tax credit equal to the lesser of:
 - (i) \$3,500; or
 - (ii) the amount of the qualifying claimant's adoption expenses.
 - (b) A qualifying claimant who claims the tax credit described in Subsection (2)(a) shall claim the tax credit for the taxable year in which the adoption is finalized.
- (3) A qualifying claimant may not claim a credit under this section to the extent that the qualifying claimant claims a federal tax credit under 26 U.S.C. Sec. 23 for the same adoption expense.
- (4) A qualifying claimant who is married may claim a tax credit under this section only if the qualifying claimant and the qualifying claimant's spouse file a joint federal income tax return.

Enacted by Chapter 460, 2023 General Session

Part 13

Individual Income Tax Contribution Act

59-10-1301 Title.

This part is known as the "Individual Income Tax Contribution Act."

Enacted by Chapter 389, 2008 General Session

59-10-1302 Definitions.

As used in this part, "contribution" means a contribution a resident or nonresident individual makes on an individual income tax return as allowed by this part.

Enacted by Chapter 389, 2008 General Session

59-10-1303 Contributions -- Amount -- Procedure for designating a contribution -- Joint return -- Contribution irrevocable.

- (1) A resident or nonresident individual that makes a contribution under this part, other than Section 59-10-1311 or Section 59-10-1313, may designate as the contribution any whole dollar amount of \$1 or more.
- (2) If a resident or nonresident individual designating a contribution under this part other than Section 59-10-1311:
 - (a) is owed an individual income tax refund for the taxable year, the amount of the contribution under this part shall be deducted from the resident or nonresident individual's individual income tax refund; or
 - (b) is not owed an individual income tax refund for the taxable year, the resident or nonresident individual may remit a contribution under this part with the resident or nonresident individual's individual income tax return, except as provided in Section 59-10-1313.
- (3) If a husband and wife file a single individual income tax return jointly, a contribution under this part, other than Section 59-10-1311, shall be a joint contribution.
- (4) Except as provided in Subsection 59-10-1313(3)(c), a contribution under this part is irrevocable for the taxable year for which the resident or nonresident individual makes the contribution.

Amended by Chapter 251, 2009 General Session

59-10-1304 Removal of designation and prohibitions on collection for certain contributions on income tax return -- Conditions for removal and prohibitions on collection -- Commission publication requirements.

- (1)
 - (a) If a contribution or combination of contributions described in Subsection (1)(b) generate less than \$30,000 per year for three consecutive years, the commission shall remove the designation for the contribution from the individual income tax return and may not collect the contribution from a resident or nonresident individual beginning two taxable years after the three-year period for which the contribution generates less than \$30,000 per year.
 - (b) The following contributions apply to Subsection (1)(a):
 - (i) the contribution provided for in Section 59-10-1306;
 - (ii) the sum of the contributions provided for in Subsection 59-10-1307(1);
 - (iii) the contribution provided for in Section 59-10-1308;
 - (iv) the contribution provided for in Section 59-10-1319;

- (v) the contribution provided for in Section 59-10-1320; or
 - (vi) the contribution provided for in Section 59-10-1321.
- (2) If the commission removes the designation for a contribution under Subsection (1), the commission shall report to the Revenue and Taxation Interim Committee by electronic means that the commission removed the designation on or before the November interim meeting of the year in which the commission determines to remove the designation.
- (3)
- (a) Within a 30-day period after the day on which the commission makes the report required by Subsection (2), the commission shall publish a list in accordance with Subsection (3)(b) stating each contribution that the commission will remove from the individual income tax return.
 - (b) The list shall:
 - (i) be published on:
 - (A) the commission's website; and
 - (B) the public legal notice website in accordance with Section 45-1-101;
 - (ii) include a statement that the commission:
 - (A) is required to remove the contribution from the individual income tax return; and
 - (B) may not collect the contribution;
 - (iii) state the taxable year for which the removal described in Subsection (3)(a) takes effect; and
 - (iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (3).

Amended by Chapter 419, 2023 General Session

Amended by Chapter 513, 2023 General Session

Amended by Chapter 534, 2023 General Session

59-10-1306 Homeless contribution -- Credit to Pamela Atkinson Homeless Account.

- (1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution to the Pamela Atkinson Homeless Account as provided in this part.
- (2) The commission shall:
- (a) determine annually the total amount of contributions designated in accordance with this section; and
 - (b) credit the amount described in Subsection (2)(a) to the Pamela Atkinson Homeless Account created by Section 35A-16-301.

Amended by Chapter 281, 2021 General Session

59-10-1307 Contributions for education.

- (1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution as provided in this part to:
- (a) the foundation of any school district if that foundation is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; or
 - (b) a school district described in Title 53G, Chapter 3, School District Creation and Change, if the school district has not established a foundation.
- (2) If a resident or nonresident individual designates an amount as a contribution under:

- (a) Subsection (1)(a), but does not designate a particular school district foundation to receive the contribution, the contribution shall be made to the State Board of Education to be distributed to one or more associations of foundations:
 - (i) if those foundations that are members of the association are established in accordance with Section 53E-3-403; and
 - (ii) as determined by the State Board of Education; or
 - (b) Subsection (1)(b), but does not designate a particular school district to receive the contribution, the contribution shall be made to the State Board of Education.
- (3) The commission shall:
- (a) determine annually the total amount of contributions designated to each entity described in Subsection (1) in accordance with this section; and
 - (b) subject to Subsection (2), credit the amounts described in Subsection (1) to the entities.

Amended by Chapter 415, 2018 General Session

59-10-1308 Children's organ transplants contribution -- Credit to Kurt Oscarson Children's Organ Transplant Account.

- (1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution to the Kurt Oscarson Children's Organ Transplant Account created by Section 26B-1-311.
- (2) The commission shall:
 - (a) determine annually the total amount of contributions designated in accordance with this section; and
 - (b) credit the amount described in Subsection (2)(a) to the Kurt Oscarson Children's Organ Transplant Account created by Section 26B-1-311.

Amended by Chapter 329, 2023 General Session

59-10-1311 Election Campaign Fund contribution -- Transfer from General Fund -- Form and procedure.

- (1)
 - (a) A resident or nonresident individual, other than a nonresident alien, may designate on the resident or nonresident individual's individual income tax return a contribution of \$2 to the Election Campaign Fund created by Section 59-10-1312, if the resident or nonresident individual:
 - (i) has a liability under this chapter for a taxable year of \$2 or more; and
 - (ii) files a return under this chapter.
 - (b) The commission shall transfer \$2 from the General Fund to the Election Campaign Fund for each contribution made on an individual income tax return under this Subsection (1).
 - (c) The transfer described in Subsection (1)(b) shall be made from revenue generated from state sales and use tax revenues collected in accordance with Chapter 12, Sales and Use Tax Act.
- (2)
 - (a) A contribution under Subsection (1) may be made with respect to any taxable year at the time a resident or nonresident individual files a return for that taxable year.
 - (b) The commission shall include the contribution allowed by this section:
 - (i) on a return under this chapter; and

- (ii) for any political party as defined by Section 20A-1-102 that has qualified as a political party in the first six months of the calendar year for which the return is prepared.
- (c) The commission shall place a political party described in Subsection (2)(b) on a return described in Subsection (2)(b) in alphabetical order.
- (d) The commission shall include on a return described in Subsection (2)(b):
 - (i) the option for a resident or nonresident individual to indicate that no contribution is to be made to any political party; and
 - (ii) a statement that a contribution a resident or nonresident individual, other than a nonresident alien, makes under this section may not:
 - (A) increase the resident or nonresident individual's tax liability under this chapter; or
 - (B) reduce the resident or nonresident individual's refund under this chapter.

Renumbered and Amended by Chapter 389, 2008 General Session

59-10-1312 Election Campaign Fund -- Creation -- Funding for account -- Disbursement and distribution -- State treasurer requirement to provide a list of contributions designated to each political party.

- (1)
 - (a) As used in this section, "fund" means the Election Campaign Fund created by this section.
 - (b) There is created a custodial fund known as the "Election Campaign Fund."
 - (c) The fund shall consist of all amounts deposited to the fund in accordance with Section 59-10-1311.
- (2) On or before four months after the due date for filing a return required by this chapter in which a contribution is made in accordance with Section 59-10-1311, the state treasurer shall:
 - (a) disburse that portion of the amounts deposited in the fund since the last disbursement:
 - (i) that are designated for a political party; and
 - (ii) to the political party to which the amounts are designated; and
 - (b) provide to the political party described in Subsection (2)(a)(ii) a list disclosing, for each county, the total amount designated by resident or nonresident individuals, other than nonresident aliens, in that county.

Amended by Chapter 451, 2022 General Session

59-10-1313 Contribution to a Utah Educational Savings Plan account.

- (1)
 - (a) If a resident or nonresident individual is owed an individual income tax refund for the taxable year, the individual may designate on the resident or nonresident individual's income tax return a contribution to a Utah Educational Savings Plan account established under Title 53B, Chapter 8a, Utah Educational Savings Plan, as provided in this part.
 - (b) If a resident or nonresident individual is not owed an individual income tax refund for the taxable year, the individual may not designate on the resident or nonresident's individual income tax return a contribution to a Utah Educational Savings Plan account.
- (2)
 - (a) The commission shall send the contribution to the Utah Educational Savings Plan along with the following information:
 - (i) the amount of the individual income tax refund; and
 - (ii) the taxpayer's:
 - (A) name;

- (B) Social Security number or taxpayer identification number; and
- (C) address.
- (b) The commission shall provide the taxpayer's telephone number and number of dependents claimed, as requested, to the Utah Educational Savings Plan.
- (c) If a contribution to a Utah Educational Savings Plan account is designated in a single individual income tax return filed jointly by a husband and wife, the commission shall send the information described under Subsection (2)(a) or (b) for both the husband and wife to the Utah Educational Savings Plan.
- (3)
 - (a) If the taxpayer owns a Utah Educational Savings Plan account, the Utah Educational Savings Plan shall deposit the contribution into the account.
 - (b) If the taxpayer owns more than one Utah Educational Savings Plan account, the Utah Educational Savings Plan shall allocate the contribution among the accounts in equal amounts.
 - (c)
 - (i) If the taxpayer does not own a Utah Educational Savings Plan account, the Utah Educational Savings Plan shall send the taxpayer an account agreement.
 - (ii) If the taxpayer does not sign and return the account agreement by the date specified by the Utah Educational Savings Plan, the Utah Educational Savings Plan shall return the contribution to the taxpayer without any interest or earnings.
- (4) For the purpose of determining interest on an overpayment or refund under Section 59-1-402, no interest accrues after the commission sends the contribution to the Utah Educational Savings Plan.

Amended by Chapter 94, 2015 General Session

59-10-1319 Contribution to Clean Air Fund.

- (1)
 - (a) There is created an expendable special revenue fund known as the "Clean Air Fund."
 - (b) The fund shall consist of all amounts deposited into the fund in accordance with Subsection (2).
- (2)
 - (a) Except as provided in Section 59-10-1304, for a taxable year beginning on or after January 1, 2017, a resident or nonresident individual who files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution as provided in this section to be:
 - (i) deposited into the Clean Air Fund; and
 - (ii) expended as provided in Subsection (3).
 - (b) The fund shall also consist of amounts deposited into the fund through:
 - (i) private contributions; and
 - (ii) donations or grants from public or private entities.
- (3)
 - (a) At least once each year, the commission shall disburse from the Clean Air Fund all money deposited into the fund since the last disbursement.
 - (b) The commission shall disburse money under Subsection (3)(a) to the Division of Air Quality for the purpose of:
 - (i) providing money for grants to individuals or organizations in the state to fund activities intended to improve air quality in the state;

- (ii) enhancing programs designed to educate the public about the importance of air quality to the health, well-being, and livelihood of individuals in the state; and
- (iii) pay the costs of issuing or reordering Clean Air Support special group license plate decals.

Amended by Chapter 33, 2023 General Session

59-10-1320 Contribution to the Governor's Suicide Prevention Fund.

- (1) Except as provided in Section 59-10-1304, a resident or nonresident individual that files an individual income tax return under this chapter may designate on the resident or nonresident individual's individual income tax return a contribution to the Governor's Suicide Prevention Fund as provided in this part.
- (2) The commission shall:
 - (a) determine annually the total amount of contributions designated in accordance with this section; and
 - (b) credit the amount described in Subsection (2)(a) to the Governor's Suicide Prevention Fund created by Section 26B-1-325.

Amended by Chapter 329, 2023 General Session

59-10-1321 Contribution to the Nonprofit Capacity Fund.

- (1)
 - (a) There is created an expendable special revenue fund known as the "Nonprofit Capacity Fund."
 - (b) The fund shall consist of all amounts deposited into the fund in accordance with Subsection (2).
- (2) Except as provided in Section 59-10-1304, a resident or nonresident individual who files an income tax return under this chapter may designate on the resident or nonresident individual's income tax return a contribution to be:
 - (a) deposited into the Nonprofit Capacity Fund; and
 - (b) expended as provided in Subsection (3).
- (3)
 - (a) Each year, the commission shall disburse from the Nonprofit Capacity Fund all money deposited into the fund since the last disbursement.
 - (b) The commission shall disburse money under Subsection (3)(a) to the Department of Cultural and Community Engagement for the purpose of providing money for grants to nonprofit organizations in the state.

Enacted by Chapter 513, 2023 General Session

Part 14
Pass-Through Entities and Pass-Through Entity Taxpayers Act

59-10-1401 Title.

This part is known as the "Pass-Through Entities and Pass-Through Entity Taxpayers Act."

Amended by Chapter 312, 2009 General Session

59-10-1402 Definitions.

As used in this part:

- (1) "Addition, subtraction, or adjustment" means:
 - (a) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes:
 - (i) an addition to unadjusted income described in Section 59-7-105; or
 - (ii) a subtraction from unadjusted income described in Section 59-7-106;
 - (b) for a pass-through entity taxpayer that is classified as an individual, partnership, or S corporation for federal income tax purposes:
 - (i) an addition to or subtraction from adjusted gross income described in Section 59-10-114; or
 - (ii) an adjustment to adjusted gross income described in Section 59-10-115; or
 - (c) for a pass-through entity taxpayer that is classified as an estate or a trust for federal income tax purposes:
 - (i) an addition to or subtraction from unadjusted income described in Section 59-10-202; or
 - (ii) an adjustment to unadjusted income described in Section 59-10-209.1.
- (2) "Business income" means income arising from transactions and activity in the regular course of a pass-through entity's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the pass-through entity's regular trade or business operations.
- (3) "C corporation" means the same as that term is defined in Section 1361, Internal Revenue Code.
- (4) "Commercial domicile" means the principal place from which the trade or business of a business entity is directed or managed.
- (5) "Dependent beneficiary" means an individual who:
 - (a) is claimed as a dependent under Section 151, Internal Revenue Code, on another person's federal income tax return; and
 - (b) is a beneficiary of a trust that is a pass-through entity.
- (6) "Derived from or connected with Utah sources" means:
 - (a) if a pass-through entity taxpayer is classified as a C corporation for federal income tax purposes, derived from or connected with Utah sources in accordance with Chapter 7, Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions; or
 - (b) if a pass-through entity or pass-through entity taxpayer is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, derived from or connected with Utah sources in accordance with Sections 59-10-117 and 59-10-118.
- (7)
 - (a) "Final pass-through entity taxpayer" means a pass-through entity taxpayer who is a resident or nonresident individual.
 - (b) "Final pass-through entity taxpayer" does not include:
 - (i) a resident or nonresident business entity; or
 - (ii) a resident or nonresident estate or trust.
- (8) "Nonbusiness income" means all income of a pass-through entity other than business income.
- (9) "Nonresident business entity" means a business entity that does not have its commercial domicile in this state.
- (10) "Nonresident pass-through entity taxpayer" means a pass-through entity taxpayer that is a:
 - (a) nonresident individual; or
 - (b) nonresident business entity.
- (11) "Pass-through entity" means a business entity that is:

- (a) the following if classified as a partnership for federal income tax purposes:
 - (i) a general partnership;
 - (ii) a limited liability company;
 - (iii) a limited liability partnership; or
 - (iv) a limited partnership;
 - (b) an S corporation;
 - (c) an estate or trust with respect to which the estate's or trust's income, gain, loss, deduction, or credit is divided among and passed through to one or more pass-through entity taxpayers; or
 - (d) a business entity similar to Subsections (11)(a) through (c):
 - (i) with respect to which the business entity's income, gain, loss, deduction, or credit is divided among and passed through to one or more pass-through entity taxpayers; and
 - (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (12) "Pass-through entity taxpayer" means a resident or nonresident individual, a resident or nonresident business entity, or a resident or nonresident estate or trust:
- (a) that is:
 - (i) for a general partnership, a partner;
 - (ii) for a limited liability company, a member;
 - (iii) for a limited liability partnership, a partner;
 - (iv) for a limited partnership, a partner;
 - (v) for an S corporation, a shareholder;
 - (vi) for an estate or trust described in Subsection(11)(c), a beneficiary; or
 - (vii) for a business entity described in Subsection(11)(d), a member, partner, shareholder, or other title designated by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (b) to which the income, gain, loss, deduction, or credit of a pass-through entity is passed through.
- (13) "Resident business entity" means a business entity that is not a nonresident business entity.
- (14) "Resident pass-through entity taxpayer" means a pass-through entity taxpayer that is a:
- (a) resident individual; or
 - (b) resident business entity.
- (15) "Return" means a return that a pass-through entity taxpayer files:
- (a) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes; or
 - (b) for a pass-through entity taxpayer that is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, under this chapter.
- (16) "S corporation" means the same as that term is defined in Section 1361, Internal Revenue Code.
- (17) "Share of income, gain, loss, deduction, or credit of a pass-through entity" means:
- (a) for a pass-through entity except for a pass-through entity that is an S corporation:
 - (i) for a resident pass-through entity taxpayer, the resident pass-through entity taxpayer's distributive share of income, gain, loss, deduction, or credit of the pass-through entity as determined under Section 704 et seq., Internal Revenue Code; and
 - (ii) for a nonresident pass-through entity taxpayer, the nonresident pass-through entity taxpayer's distributive share of income, gain, loss, deduction, or credit of the pass-through entity:
 - (A) as determined under Section 704 et seq., Internal Revenue Code; and
 - (B) derived from or connected with Utah sources; or

- (b) for an S corporation:
 - (i) for a resident pass-through entity taxpayer, the resident pass-through entity taxpayer's pro rata share of income, gain, loss, deduction, or credit of the S corporation, as determined under Sec. 1366 et seq., Internal Revenue Code; or
 - (ii) for a nonresident pass-through entity taxpayer, the nonresident pass-through entity taxpayer's pro rata share of income, gain, loss, deduction, or credit of the S corporation:
 - (A) as determined under Section 1366 et seq., Internal Revenue Code; and
 - (B) derived from or connected with Utah sources.
- (18) "Statement of dependent beneficiary income" means a statement:
 - (a) signed by the person who claims a dependent beneficiary as a dependent under Section 151, Internal Revenue Code, on the person's federal income tax return for the taxable year;
 - (b) attesting that the dependent is a dependent beneficiary; and
 - (c) indicating that the person expects that the dependent beneficiary's adjusted gross income for the taxable year will not exceed the basic standard deduction for the dependent beneficiary, as calculated under Section 63, Internal Revenue Code, for that taxable year.
- (19) "Voluntary taxable income" means the sum of a pass-through entity's income that is:
 - (a) attributed to a final pass-through entity taxpayer who is a resident individual unless the income is taxed by another state of the United States, the District of Columbia, or possession of the United States; and
 - (b)
 - (i) business income and nonbusiness income that is derived from or connected with Utah sources; and
 - (ii) attributed to a final pass-through entity taxpayer who is a nonresident individual.

Amended by Chapter 470, 2023 General Session

59-10-1403 Income tax treatment of a pass-through entity -- Returns -- Classification same as under Internal Revenue Code.

- (1) Subject to Subsection (3) and except as provided in Subsection 59-10-1403.2(2), a pass-through entity is not subject to a tax imposed by this chapter.
- (2) Except as provided in Section 59-10-1403.3, the income, gain, loss, deduction, or credit of a pass-through entity shall be passed through to one or more pass-through entity taxpayers as provided in this part.
- (3) A pass-through entity is subject to the return filing requirements of Sections 59-10-507, 59-10-514, and 59-10-516.
- (4) For purposes of taxation under this title, a pass-through entity that transacts business in the state shall be classified in the same manner as the pass-through entity is classified for federal income tax purposes.
- (5)
 - (a) If a change is made in a pass-through entity's net income or loss on the pass-through entity's federal income tax return because of an action of the federal government, the pass-through entity shall file with the commission within 90 days after the date of a final determination of the action:
 - (i) a copy of the pass-through entity's amended federal income tax return or federal adjustment; and
 - (ii) an amended state income tax return that conforms with the changes made in the pass-through entity's amended federal income tax return.

- (b) If a change is made in a pass-through entity's net income on the pass-through entity's federal income tax return because the pass-through entity files an amended federal income tax return, the pass-through entity shall file with the commission, within 90 days after the date the taxpayer files the amended federal income tax return:
 - (i) a copy of the pass-through entity's amended federal income tax return; and
 - (ii) an amended state income tax return that conforms with the changes made in the pass-through entity's amended federal income tax return.
- (6)
 - (a) A pass-through entity subject to the return filing requirements under Subsection (3), shall report on the pass-through entity's return:
 - (i) whether the entity has filed a current annual report with the Division of Corporations; and
 - (ii) the entity's commerce entity number.
 - (b) Subsection (6)(a) does not apply to an individual, estate, or trust.

Amended by Chapter 232, 2024 General Session

59-10-1403.1 Income tax treatment of a pass-through entity taxpayer -- Return filing requirements.

- (1) Subject to the other provisions of this part, a pass-through entity taxpayer is subject to taxation:
 - (a) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes:
 - (i) if that pass-through entity taxpayer is a resident pass-through entity taxpayer, as a domestic corporation is taxed under Chapter 7, Corporate Franchise and Income Taxes; or
 - (ii) if that pass-through entity taxpayer is a nonresident pass-through entity taxpayer, as a foreign corporation is taxed under Chapter 7, Corporate Franchise and Income Taxes; or
 - (b) for a pass-through entity taxpayer that is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes:
 - (i) if that pass-through entity taxpayer is a resident pass-through entity taxpayer, as a resident estate, resident individual, resident partnership, resident S corporation, or resident trust is taxed under this chapter; or
 - (ii) if that pass-through entity taxpayer is a nonresident pass-through entity taxpayer, as a nonresident estate, nonresident individual, nonresident partnership, nonresident S corporation, or nonresident trust is taxed under this chapter.
- (2) A pass-through entity taxpayer is subject to taxation on the pass-through entity taxpayer's share of income, gain, loss, deduction, or credit of the pass-through entity.
- (3)
 - (a) Subject to Subsection (3)(b)(iii), a resident pass-through entity taxpayer shall file a return:
 - (i) if the resident pass-through entity taxpayer is classified as a C corporation for federal income tax purposes, as a domestic corporation under Chapter 7, Corporate Franchise and Income Taxes; or
 - (ii) if the resident pass-through entity taxpayer is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, as a resident estate, resident individual, resident partnership, resident S corporation, or resident trust under this chapter.
 - (b)
 - (i) Except as provided in Subsection (3)(b)(ii) and subject to Subsection (3)(b)(iii) or (iv), a nonresident pass-through entity taxpayer shall file a return:

- (A) if the nonresident pass-through entity taxpayer is classified as a C corporation for federal income tax purposes, as a foreign corporation under Chapter 7, Corporate Franchise and Income Taxes; or
 - (B) if the nonresident pass-through entity taxpayer is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, as a nonresident estate, nonresident individual, nonresident partnership, nonresident S corporation, or nonresident trust under this chapter.
- (ii) A nonresident pass-through entity taxpayer is not required to file a return if:
- (A) the nonresident pass-through entity taxpayer does not have:
 - (I) for a nonresident 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 derived from or connected with Utah sources, except for the nonresident pass-through entity taxpayer's share of income, gain, loss, deduction, or credit of the pass-through entity;
 - (II) for a nonresident pass-through entity taxpayer that is classified as an individual, partnership, or S corporation for federal income tax purposes, adjusted gross income derived from or connected with Utah sources, except for the nonresident pass-through entity taxpayer's share of income, gain, loss, deduction, or credit of the pass-through entity; or
 - (III) for a nonresident pass-through entity taxpayer that is classified as an estate or a trust for federal income tax purposes, unadjusted income as defined in Section 59-10-103 derived from or connected with Utah sources, except for the nonresident pass-through entity taxpayer's share of income, gain, loss, deduction, or credit of the pass-through entity;
 - (B) the nonresident pass-through entity taxpayer does not seek to claim a tax credit allowed against a tax imposed under:
 - (I) Chapter 7, Corporate Franchise and Income Taxes; or
 - (II) this chapter;
 - (C) the pass-through entity pays or withholds a tax on behalf of the nonresident pass-through entity taxpayer and remits that tax to the commission:
 - (I) in accordance with Section 59-10-1403.2; and
 - (II) if a nonresident pass-through entity taxpayer is classified as a C corporation for federal income tax purposes, in an amount that is equal to or greater than the minimum tax under Section 59-7-104; and
 - (D) the nonresident pass-through entity taxpayer is not a member of a unitary group as defined in Section 59-7-101 that is required to file a return in this state.
- (iii) A nonresident pass-through entity taxpayer that is not otherwise required to file a return under this Subsection (3) may file a return under:
- (A) Chapter 7, Corporate Franchise and Income Taxes; or
 - (B) this chapter.
- (iv) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for a pass-through entity taxpayer, except for a pass-through entity taxpayer who is a resident individual, to file a return under this section if two or more pass-through entities pay or withhold a tax in accordance with Section 59-10-1403.2 on behalf of the pass-through entity taxpayer.

Enacted by Chapter 312, 2009 General Session

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.

- (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:
 - (i) on:
 - (A) the business income of the pass-through entity; and
 - (B) the nonbusiness income of the pass-through entity derived from or connected with Utah sources; and
 - (ii) on behalf of a pass-through entity taxpayer.
 - (b) A pass-through entity is not required to pay or withhold a tax under Subsection (1)(a):
 - (i) on behalf of a final pass-through entity taxpayer who is a resident individual;
 - (ii) if the pass-through entity is an organization exempt from taxation under Subsection 59-7-102(1)(a);
 - (iii) if the pass-through entity:
 - (A) is a plan under Section 401, 408, or 457, Internal Revenue Code; and
 - (B) is not required to file a return under Chapter 7, Corporate Franchise and Income Taxes, or this chapter;
 - (iv) if the pass-through entity is a publicly traded partnership:
 - (A) as defined in Section 7704(b), Internal Revenue Code;
 - (B) that is classified as a partnership for federal income tax purposes; and
 - (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:
 - (I) the partner's name;
 - (II) the partner's address;
 - (III) the partner's taxpayer identification number; and
 - (IV) other information required by the commission; or
 - (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).
- (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:
 - (i) the percentage listed in Subsection 59-10-104(2); and
 - (ii) voluntary taxable income.
 - (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.
 - (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:
 - (i) the amount of tax paid under Subsection (2)(a) on the income attributed to the final pass-through entity taxpayer; and
 - (ii) the amount of tax paid to another state by the pass-through entity on income:
 - (A) attributed to the final pass-through entity taxpayer; and
 - (B) that the commission determines is substantially similar to the tax under Subsection (2)(a).
 - (d) A payment of the tax described in Subsection (2)(a) on or before the last day of the taxable year:

- (i) is an irrevocable election to be subject to the tax for the taxable year; and
 - (ii) may not be refunded.
- (3)
- (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
 - (D) a tax credit allowed against a tax imposed under:
 - (I) Chapter 7, Corporate Franchise and Income Taxes; or
 - (II) this chapter.
 - (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:
 - (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
 - (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.

- (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:
 - (i) on or before the due date of the pass-through entity's return, not including extensions; and
 - (ii) on a form provided by the commission.
 - (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.
 - (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).
 - (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.
- (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.
- (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:
- (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;
 - (b) the pass-through entity taxpayer:
 - (i) files a return on or before the due date for filing the pass-through entity's return, including extensions; and
 - (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:
 - (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
 - (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
 - (c) the pass-through entity applies to the commission.
- (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:
- (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;
 - (b) the pass-through entity applies to the commission; and
 - (c)
 - (i) the dependent beneficiary complies with the requirements of Subsection (6)(b); or
 - (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

- (B) the trustee of the trust retains a statement of dependent beneficiary income on behalf of the dependent beneficiary.
- (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 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).

Amended by Chapter 470, 2023 General Session

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 excess withholding" means an amount that:
 - (i) is paid or withheld:
 - (A) 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) 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) is equal to the difference between:
 - (A) the amount paid or withheld for the taxable year on behalf of the pass-through entity that requests the refund; and
 - (B) the product of the percentage listed in Subsection 59-10-104(2) 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 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
 - (b) the pass-through entity's income tax return is due, including any extension of due date authorized in statute.
- (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.
- (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.

- (b) To assist the committee in conducting the review described in Subsection (6)(a), the commission shall provide the committee with:
 - (i) the total number of refund requests made under this section;
 - (ii) the total costs of any refunds issued under this section;
 - (iii) the costs of any audits conducted on refund requests made under this section; and
 - (iv) an estimation of:
 - (A) the number of refund requests the commission expects to receive if the Legislature increases the threshold;
 - (B) the number of refund requests the commission expects to receive if the Legislature decreases the threshold; and
 - (C) the costs of any audits the commission would conduct if the Legislature increases or decreases the threshold.

Amended by Chapter 367, 2021 General Session

59-10-1404 Character of an item of income, gain, loss, deduction, or credit.

Regardless of whether or how an item of income, gain, loss, deduction, or credit is characterized for federal income tax purposes, that item of income, gain, loss, deduction, or credit is from the same source and incurred in the same manner for a pass-through entity taxpayer as if the item of income, gain, loss, deduction, or credit is:

- (1) realized directly from the source from which the item of income, gain, loss, deduction, or credit is realized by the pass-through entity; or
- (2) incurred in the same manner as incurred by the pass-through entity.

Amended by Chapter 312, 2009 General Session

59-10-1404.5 Resident pass-through entity taxpayer's share of an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit of a pass-through entity.

- (1) In determining the taxable income of a resident pass-through entity taxpayer, an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit of a pass-through entity shall be made in accordance with this section.
- (2) For a resident pass-through entity taxpayer of a pass-through entity except for a pass-through entity that is an S corporation, the resident pass-through entity taxpayer's share of an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit is:
 - (a) if the item of income, gain, loss, deduction, or credit is required to be taken into account separately for federal income tax purposes, the resident pass-through entity taxpayer's distributive share of the item of income, gain, loss, deduction, or credit:
 - (i) for federal income tax purposes; and
 - (ii) determined under Section 704 et seq., Internal Revenue Code; or
 - (b) if the item of income, gain, loss, deduction, or credit is not required to be taken into account separately for federal income tax purposes, determined in accordance with the resident pass-through entity taxpayer's distributive share of income, gain, loss, deduction, or credit:
 - (i) relating to the pass-through entity generally;
 - (ii) for federal income tax purposes; and
 - (iii) under Section 704 et seq., Internal Revenue Code.

- (3) For a resident pass-through entity taxpayer of a pass-through entity that is an S corporation, the resident pass-through entity taxpayer's share of an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit is:
- (a) if the item of income, gain, loss, deduction, or credit is required to be taken into account separately for federal income tax purposes, the resident pass-through entity taxpayer's pro rata share of the item of income, gain, loss, deduction, or credit:
 - (i) for federal income tax purposes; and
 - (ii) determined under Section 1366 et seq., Internal Revenue Code; or
 - (b) if the item of income, gain, loss, deduction, or credit is not required to be taken into account separately for federal income tax purposes, determined in accordance with the resident pass-through entity taxpayer's pro rata share of the item of income, gain, loss, deduction, or credit:
 - (i) relating to the pass-through entity generally;
 - (ii) for federal income tax purposes; and
 - (iii) under Section 1366 et seq., Internal Revenue Code.

Enacted by Chapter 312, 2009 General Session

59-10-1405 Nonresident pass-through entity taxpayer's share of an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit of a pass-through entity -- In determining source of nonresident pass-through entity taxpayer's income certain provisions of pass-through entity agreement may not be considered -- Rulemaking authority.

- (1)
- (a) Except as provided in Subsection (3), in determining the taxable income of a nonresident pass-through entity taxpayer, an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit of a pass-through entity shall be made in accordance with this Subsection (1).
 - (b) For a nonresident pass-through entity taxpayer of a pass-through entity except for a pass-through entity that is an S corporation, the nonresident pass-through entity taxpayer's share of an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit is:
 - (i) if the item of income, gain, loss, deduction, or credit is required to be taken into account separately for federal income tax purposes, the nonresident pass-through entity taxpayer's distributive share of the item of income, gain, loss, deduction, or credit:
 - (A) for federal income tax purposes;
 - (B) determined under Section 704 et seq., Internal Revenue Code; and
 - (C) derived from or connected with Utah sources; or
 - (ii) if the item of income, gain, loss, deduction, or credit is not required to be taken into account separately for federal income tax purposes, determined in accordance with the nonresident pass-through entity taxpayer's distributive share of income, gain, loss, deduction, or credit:
 - (A) relating to the pass-through entity generally;
 - (B) for federal income tax purposes;
 - (C) under Section 704 et seq., Internal Revenue Code; and
 - (D) derived from or connected with Utah sources.
 - (c) For a nonresident pass-through entity taxpayer of a pass-through entity that is an S corporation, the nonresident pass-through entity taxpayer's share of an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit is:

- (i) if the item of income, gain, loss, deduction, or credit is required to be taken into account separately for federal income tax purposes, the nonresident pass-through entity taxpayer's pro rata share of the item of income, gain, loss, deduction, or credit:
 - (A) for federal income tax purposes;
 - (B) determined under Section 1366 et seq., Internal Revenue Code; and
 - (C) derived from or connected with Utah sources; or
 - (ii) if the item of income, gain, loss, deduction, or credit is not required to be taken into account separately for federal income tax purposes, determined in accordance with the nonresident pass-through entity taxpayer's pro rata share of the item of income, gain, loss, deduction, or credit:
 - (A) relating to the pass-through entity generally;
 - (B) for federal income tax purposes;
 - (C) under Section 1366 et seq., Internal Revenue Code; and
 - (D) derived from or connected with Utah sources.
- (2) In determining the source of a nonresident pass-through entity taxpayer's income, the following provisions in a pass-through entity agreement may not be considered:
- (a) a provision that allocates to the nonresident pass-through entity taxpayer, as income, gain, or credit from a source outside this state, a greater proportion of the nonresident pass-through entity taxpayer's share of income, gain, or credit of the pass-through entity than the ratio of income, gain, or credit of the pass-through entity from sources outside this state to income, gain, or credit of the pass-through entity from all sources; or
 - (b) a provision that allocates to the nonresident pass-through entity taxpayer a greater proportion of an item of loss or deduction of the pass-through entity derived from or connected with Utah sources than the taxpayer's share of loss or deduction generally:
 - (i) relating to the pass-through entity; and
 - (ii) for federal income tax purposes.
- (3) The commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, authorize the use of a calculation other than the calculation provided in Subsection (1), for determining a nonresident pass-through entity taxpayer's share of an addition, subtraction, or adjustment that relates to an item of income, gain, loss, deduction, or credit of a pass-through entity derived from or connected with Utah sources if:
- (a) the nonresident pass-through entity taxpayer applies to the commission; and
 - (b) the commission finds that the use of the calculation is appropriate and equitable.

Amended by Chapter 312, 2009 General Session