Chapter 7
Corporate Franchise and Income Taxes

Part 1
Corporate Tax Generally

59-7-101 Definitions.

As used in this chapter:

(1) "Adjusted income" means unadjusted income as modified by Sections 59-7-105 and 59-7-106.

(2)

(a) "Affiliated group" means one or more chains of corporations that are connected through stock ownership with a common parent corporation that meet the following requirements:

(i) at least 80% of the stock of each of the corporations in the group, excluding the common parent corporation, is owned by one or more of the other corporations in the group; and

(ii) the common parent directly owns at least 80% of the stock of at least one of the corporations in the group.

(b) "Affiliated group" does not include corporations that are qualified to do business but are not otherwise doing business in this state.

(c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(3) "Apportionable income" means adjusted income less nonbusiness income net of related expenses, to the extent included in adjusted income.

(4) "Apportioned income" means apportionable income multiplied by the apportionment fraction as determined in Section 59-7-311.

(5) "Business income" means the same as that term is defined in Section 59-7-302.

(6) "Captive insurance company" means the same as that term is defined in Section 31A-1-301.

(7)

(a) "Captive real estate investment trust" means a real estate investment trust if:

(i) the shares or beneficial interests of the real estate investment trust are not regularly traded on an established securities market; and

(ii) more than 50% of the voting power or value of the shares or beneficial interests of the real estate investment trust are directly, indirectly, or constructively:

(A) owned by a controlling entity of the real estate investment trust; or

(B) controlled by a controlling entity of the real estate investment trust.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(8)

(a) "Common ownership" means the direct or indirect control or ownership of more than 50% of the outstanding voting stock of:

(i) a parent-subsidiary controlled group as defined in Section 1563, Internal Revenue Code, except that 50% shall be substituted for 80%;

(ii) a brother-sister controlled group as defined in Section 1563, Internal Revenue Code; or

(iii) three or more corporations each of which is a member of a group of corporations described in Subsection (2)(a)(i) or (ii), and one of which is:

(A) a common parent corporation included in a group of corporations described in Subsection (2)(a)(i); and

(B) included in a group of corporations described in Subsection (2)(a)(ii).

(b) Ownership of outstanding voting stock shall be determined by Section 1563, Internal Revenue Code.

(9)

(a) "Controlling entity of a captive real estate investment trust" means an entity that:

(i) is treated as an association taxable as a corporation under the Internal Revenue Code;

(ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue Code; and

(iii) directly, indirectly, or constructively holds more than 50% of:

(A) the voting power of a captive real estate investment trust; or

(B) the value of the shares or beneficial interests of a captive real estate investment trust.

(b) "Controlling entity of a captive real estate investment trust" does not include:

(i) a real estate investment trust, except for a captive real estate investment trust;

(ii) a qualified real estate investment subsidiary described in Section 856(i), Internal Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real estate investment trust; or

(iii) a foreign real estate investment trust.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining "established securities market."

(10) "Corporate return" or "return" includes a combined report.

(11) "Corporation" includes:

(a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue Code; and

(b) other organizations that are taxed as corporations for federal income tax purposes under the Internal Revenue Code.

(12) "COVID-19" means:

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

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

(13) "Dividend" means any distribution, including money or other type of property, made by a corporation to its shareholders out of its earnings or profits accumulated after December 31, 1930.

(14)

(a) "Doing business" includes any transaction in the course of business by a domestic corporation or by a foreign corporation qualified to do or doing business in this state.

(b) Except as provided in Subsection (14)(c) or Subsection 59-7-102(3), "doing business" includes:

(i) the right to do business through incorporation or qualification;

(ii) owning, renting, or leasing of real or personal property within this state;

(iii) the participation in joint ventures, working and operating agreements, the performance of which takes place in this state;

(iv) selling or performing a service in this state; and

(v) earning income from the use of intangible property in this state.

(c) "Doing business" does not include the business activity of a corporation if the corporation's only business activity within the state is the solicitation of orders for sales of tangible personal property that are protected under 15 U.S.C. Secs. 381 through 384.

(15) "Domestic corporation" means a corporation that is incorporated or organized under the laws of this state.

(16) "Exercising a corporate franchise" does not include the business activity of a corporation if the corporation's only business activity within the state is the solicitation of orders for sales of tangible personal property that are protected under 15 U.S.C. Secs. 381 through 384.

(17)

(a) "Farmers' cooperative" means an association, corporation, or other organization that is:

(i)

(A) an association, corporation, or other organization of farmers or fruit growers; or

(B) an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection (17)(a)(i)(A); and

(ii) organized and operated on a cooperative basis to:

(A)

(I) market the products of members of the cooperative or the products of other producers; and

(II) return to the members of the cooperative or other producers the proceeds of sales less necessary marketing expenses on the basis of the quantity of the products of a member or producer or the value of the products of a member or producer; or

(B)

(I) purchase supplies and equipment for the use of members of the cooperative or other persons; and

(II) turn over the supplies and equipment described in Subsection (17)(a)(ii)(B)(I) at actual costs plus necessary expenses to the members of the cooperative or other persons.

(b)

(i) Subject to Subsection (17)(b)(ii), for purposes of this Subsection (17), the commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define:

(A) the terms "member" and "producer"; and

(B) what constitutes an association, corporation, or other organization that is similar to an association, corporation, or organization described in Subsection (17)(a)(i)(A).

(ii) The rules made under this Subsection (17)(b) shall be consistent with the filing requirements under federal law for a farmers' cooperative.

(18) "Foreign corporation" means a corporation that is not incorporated or organized under the laws of this state.

(19)

(a) "Foreign operating company" means a corporation that:

(i) is incorporated in the United States;

(ii) conducts at least 80% of the corporation's business activity, as determined under Section 59-7-401, outside the United States; and

(iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions, has:

(A) at least $1,000,000 of payroll located outside the United States; and

(B) at least $2,000,000 of property located outside the United States.

(b) "Foreign operating company" does not include a corporation that qualifies for the Puerto Rico and possession tax credit as provided in Section 936, Internal Revenue Code.

(20)

(a) "Foreign real estate investment trust" means:

(i) a business entity organized outside the laws of the United States if:

(A) at least 75% of the business entity's total asset value at the close of the business entity's taxable year is represented by:

(I) real estate assets, as defined in Section 856(c)(5)(B), Internal Revenue Code;
(II) cash or cash equivalents; or
(III) one or more securities issued or guaranteed by the United States;
(B) the business entity is:
(I) not subject to income taxation:
(Aa) on amounts distributed to the business entity's beneficial owners; and
(Bb) in the jurisdiction in which the business entity is organized; or
(II) exempt from income taxation on an entity level in the jurisdiction in which the business entity is organized;
(C) the business entity distributes at least 85% of the business entity's taxable income, as computed in the jurisdiction in which the business entity is organized, to the holders of the business entity's:
(I) shares or beneficial interests; and
(II) on an annual basis;
(D)
(I) not more than 10% of the following is held directly, indirectly, or constructively by a single person:
(Aa) the voting power of the business entity; or
(Bb) the value of the shares or beneficial interests of the business entity; or
(II) the shares of the business entity are regularly traded on an established securities market; and
(E) the business entity is organized in a country that has a tax treaty with the United States; or
(ii) a listed Australian property trust.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining:
(i) "cash or cash equivalents";
(ii) "established securities market"; or
(iii) "listed Australian property trust."
(21) "Income" includes losses.
(22) "Internal Revenue Code" means Title 26 of the United States Code as effective during the year in which Utah taxable income is determined.
(23) "Nonbusiness income" means the same as that term is defined in Section 59-7-302.
(24) "Real estate investment trust" means the same as that term is defined in Section 856, Internal Revenue Code.
(25) "Related expenses" means:
(a) expenses directly attributable to nonbusiness income; and
(b) the portion of interest or other expense indirectly attributable to both nonbusiness and business income that bears the same ratio to the aggregate amount of such interest or other expense, determined without regard to this Subsection (25), as the average amount of the asset producing the nonbusiness income bears to the average amount of all assets of the taxpayer within the taxable year.
(26) "S corporation" means an S corporation as defined in Section 1361, Internal Revenue Code.
(27) "Safe harbor lease" means a lease that qualified as a safe harbor lease under Section 168, Internal Revenue Code.
(28) "Special deduction" includes a deduction under:
(a) Section 250, Internal Revenue Code; or
(b) Section 965(c), Internal Revenue Code.
(29) "State of the United States" includes any of the 50 states or the District of Columbia.

(30)
(a) "Taxable year" means the calendar year or the fiscal year ending during such calendar year upon the basis of which the adjusted income is computed.
(b) In the case of a return made for a fractional part of a year under this chapter or under rules prescribed by the commission, "taxable year" includes the period for which such return is made.
(31) "Taxpayer" means any corporation subject to the tax imposed by this chapter.
(32) "Threshold level of business activity" means business activity in the United States equal to or greater than 20% of the corporation's total business activity as determined under Section 59-7-401.
(33)
(a) "Unadjusted income" means federal taxable income as determined on a separate return basis before intercompany eliminations as determined by the Internal Revenue Code, before the net operating loss deduction and special deductions.
(b) "Unadjusted income" includes deferred foreign income described in Section 965(a), Internal Revenue Code.
(c) "Unadjusted income" does not include income received from:
(i) 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
(ii) a similar paycheck protection loan that is:
(A) authorized by the federal government;
(B) provided in response to COVID-19;
(C) forgiven if the borrower meets the expenditure requirements; and
(D) exempt from federal income tax, to the extent that a deduction for the expenditures paid with the loan is disallowed.
(34)
(a) "Unitary group" means a group of corporations that:
(i) are related through common ownership; and
(ii) by a preponderance of the evidence as determined by a court of competent jurisdiction or the commission, are economically interdependent with one another as demonstrated by the following factors:
(A) centralized management;
(B) functional integration; and
(C) economies of scale.
(b) "Unitary group" includes a captive real estate investment trust.
(c) "Unitary group" does not include an S corporation.
(35) "United States" includes the 50 states and the District of Columbia.
(36) "Utah net loss" means the current year Utah taxable income before Utah net loss deduction, if determined to be less than zero.
(37) "Utah net loss deduction" means the amount of Utah net losses from other taxable years that a taxpayer may carry forward to the current taxable year in accordance with Section 59-7-110.
(38)
(a) "Utah taxable income" means Utah taxable income before net loss deduction less Utah net loss deduction.
(b) "Utah taxable income" includes income from tangible or intangible property located or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign commerce.

(39) "Utah taxable income before net loss deduction" means apportioned income plus nonbusiness income allocable to Utah net of related expenses.
(40)
(a) "Water's edge combined report" means a report combining the income and activities of:
(i) all members of a unitary group that are:
(A) corporations organized or incorporated in the United States, including those corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section 936, Internal Revenue Code, in accordance with Subsection (40)(b); and
(B) corporations organized or incorporated outside of the United States meeting the threshold level of business activity; and
(ii) an affiliated group electing to file a water's edge combined report under Subsection 59-7-402(2).
(b) There is a rebuttable presumption that a corporation which qualifies for the Puerto Rico and possession tax credit provided in Section 936, Internal Revenue Code, is part of a unitary group.
(41) "Worldwide combined report" means the combination of the income and activities of all members of a unitary group irrespective of the country in which the corporations are incorporated or conduct business activity.

Amended by Chapter 368, 2021 General Session

59-7-102 Exemptions.
(1) Except as provided in this section, the following are exempt from a tax under this chapter:
(a) an organization exempt under Section 501, Internal Revenue Code;
(b) an organization exempt under Section 528, Internal Revenue Code;
(c) an insurance company that is subject to taxation on the insurance company's premiums under Chapter 9, Taxation of Admitted Insurers, regardless of whether the insurance company has a tax liability under that chapter;
(d) a local building authority as defined in Section 17D-2-102;
(e) a farmers' cooperative;
(f) a public agency, as defined in Section 11-13-103, with respect to or as a result of an ownership interest in:
(i) a project, as defined in Section 11-13-103; or
(ii) facilities providing additional project capacity, as defined in Section 11-13-103;
(g) an insurance company that engages in a transaction that is subject to taxation under Section 31A-3-301 or 31A-3-302, regardless of whether the insurance company has a tax liability under that section; or
(h) a captive insurance company that pays a fee under Section 31A-3-304.
(2) A corporation is exempt from a tax under this chapter:
(a) if the corporation is an out-of-state business as defined in Section 53-2a-1202; and
(b) for income earned:
(i) during a disaster period as defined in Section 53-2a-1202; and
(ii) for the purpose of responding to a declared state disaster or emergency as defined in Section 53-2a-1202.
(3) Notwithstanding any other provision in this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, a person not otherwise subject to the tax imposed by this chapter or Chapter 8, Gross Receipts Tax

on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, is not subject to a tax imposed by Section 59-7-104, 59-7-201, 59-7-701, or 59-8-104, because of:
(a) that person's ownership of tangible personal property located at the premises of a printer's facility in this state with which the person has contracted for printing; or
(b) the activities of the person's employees or agents who are:
(i) located solely at the premises of a printer's facility; and
(ii) performing services:
(A) related to:
(I) quality control;
(II) distribution; or
(III) printing services; and
(B) performed by the printer's facility in this state with which the person has contracted for printing.
(4) Notwithstanding Subsection (1), an organization, company, authority, farmers' cooperative, or public agency exempt from this chapter under Subsection (1) is subject to Part 8, Unrelated Business Income, to the extent provided in Part 8, Unrelated Business Income.
(5) Notwithstanding Subsection (1)(b), to the extent the income of an organization described in Subsection (1)(b) is taxable for federal tax purposes under Section 528, Internal Revenue Code, the organization's income is also taxable under this chapter.

Amended by Chapter 168, 2017 General Session

59-7-103 Chapter applicable to receivers, trustees in bankruptcy and assignees.

Unless otherwise provided in this chapter, receivers, trustees in bankruptcy, and assignees for creditors required to make returns under this chapter shall be subject to the provisions of this chapter.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-104 Tax -- Minimum tax.

(1) Each domestic and foreign corporation, except a corporation that is exempt under Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable income for the taxable year for the privilege of exercising the corporation's corporate franchise or for the privilege of doing business in the state.
(2) The tax shall be 4.55% of a corporation's Utah taxable income.
(3) The minimum tax a corporation shall pay under this chapter is $100.

Amended by Chapter 255, 2024 General Session

59-7-105 Additions to unadjusted income.

In computing adjusted income the following amounts shall be added to unadjusted income:
(1) interest from bonds, notes, and other evidences of indebtedness issued by any state of the United States, including any agency and instrumentality of a state of the United States;
(2) the amount of any deduction taken on a corporation's federal return for taxes paid by a corporation:
(a) to Utah for taxes imposed by this chapter; and
(b) to another state of the United States, a foreign country, a United States possession, or the Commonwealth of Puerto Rico for taxes imposed for the privilege of doing business, or

exercising its corporate franchise, including income, franchise, corporate stock and business and occupation taxes;

(3) the safe harbor lease adjustment required under Subsections 59-7-111(1)(a) and (2)(a);

(4) capital losses that have been deducted on a Utah corporate return in previous years;

(5) any deduction on the federal return that has been previously deducted on the Utah return;

(6) charitable contributions, to the extent deducted on the federal return when determining federal taxable income;

(7) the amount of gain or loss determined under Section 59-7-114 relating to a target corporation under Section 338, Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;

(8) the amount of gain or loss determined under Section 59-7-115 relating to corporations treated for federal purposes as having disposed of its assets under Section 336(e), Internal Revenue Code, unless such gain or loss has already been included in the unadjusted income of the target corporation;

(9) adjustments to gains, losses, depreciation expense, amortization expense, and similar items due to a difference between basis for federal purposes and basis as computed under Section 59-7-107;

(10) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a corporation 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 corporation that is the account owner:

(a) is not expended for:

(i) higher education costs as defined in Section 53B-8a-102.5; or

(ii) 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

(b) is subtracted by the corporation:

(i) that is the account owner; and

(ii) in accordance with Subsection 59-7-106(1)(r);

(11) the amount of the deduction for dividends paid, as defined in Section 561, Internal Revenue Code, that is allowed under Section 857(b)(2)(B), Internal Revenue Code, in computing the taxable income of a captive real estate investment trust, if that captive real estate investment trust is subject to federal income taxation; and

(12) any deduction on a return filed under this chapter for a royalty or other expense that a corporation pays to an entity related by common ownership for the use of an intangible asset where the intangible asset is owned by the entity related by common ownership unless the corporation can demonstrate to the satisfaction of the commission or a court on judicial review in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, that:

(a) for the same taxable year, the entity related by common ownership is subject to income taxes on the royalty or other expense:

(i) under this chapter;

(ii) under the laws of another state; or

(iii) by a foreign government that has in force an income tax treaty with the United States; or

(b) if Subsection (12)(a) does not apply, the corporation paying the royalty or other expenses never owned the intangible asset.

Amended by Chapter 184, 2020 General Session

59-7-106 Subtractions from unadjusted income.

(1) In computing adjusted income, the following amounts shall be subtracted from unadjusted income:

(a) the foreign dividend gross-up included in gross income for federal income tax purposes under Section 78, Internal Revenue Code;

(b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the taxpayer elects to deduct the net capital loss on the return filed under this chapter for the taxable year for which the net capital loss is incurred;

(c) the decrease in salary expense deduction for federal income tax purposes due to claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

(d) the decrease in qualified research and basic research expense deduction for federal income tax purposes due to claiming the federal credit for increasing research activities under Section 41, Internal Revenue Code;

(e) the decrease in qualified clinical testing expense deduction for federal income tax purposes due to claiming the federal credit for clinical testing expenses for certain drugs for rare diseases or conditions under Section 45C, Internal Revenue Code;

(f) any decrease in any expense deduction for federal income tax purposes due to claiming any other federal credit;

(g) the safe harbor lease adjustment required under Subsections 59-7-111(1)(b) and (2)(b);

(h) any income on the federal corporation income tax return that has been previously taxed by Utah;

(i) an amount included in federal taxable income that is due to a refund of a tax, including a franchise tax, an income tax, a corporate stock and business tax, or an occupation tax:

(i) if that tax is imposed for the privilege of:

(A) doing business; or

(B) exercising a corporate franchise;

(ii) if that tax is paid by the corporation to:

(A) Utah;

(B) another state of the United States;

(C) a foreign country;

(D) a United States possession; or

(E) the Commonwealth of Puerto Rico; and

(iii) to the extent that tax was added to unadjusted income under Section 59-7-105;

(j) a charitable contribution, to the extent the charitable contribution is allowed as a subtraction under Section 59-7-109;

(k) subject to Subsection (3), 50% of a dividend considered to be received or received from a subsidiary that:

(i) is a member of the unitary group;

(ii) is organized or incorporated outside of the United States; and

(iii) is not included in a combined report under Section 59-7-402 or 59-7-403;

(l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a foreign operating company;

(m) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold or exchanged by a member of a selling consolidated group as defined in Section 338, Internal Revenue Code, if an election has been made in accordance with Section 338(h)(10), Internal Revenue Code;

(n) the amount of gain or loss that is included in unadjusted income but not recognized for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance with

Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal Revenue Code, has been made for federal purposes;
(o) subject to Subsection (5), an adjustment to the following due to a difference between basis for federal purposes and basis as computed under Section 59-7-107:
(i) an amortization expense;
(ii) a depreciation expense;
(iii) a gain;
(iv) a loss; or
(v) an item similar to Subsections (1)(o)(i) through (iv);
(p) an interest expense that is not deducted on a federal corporation income tax return under Section 265(b) or 291(e), Internal Revenue Code;
(q) 100% of dividends received from a subsidiary that is an insurance company if that subsidiary that is an insurance company is:
(i) exempt from this chapter under Subsection 59-7-102(1)(c); and
(ii) under common ownership;
(r) subject to Subsection 59-7-105(10), for a corporation that is an account owner as defined in Section 53B-8a-102, the amount of a qualified investment as defined in Section 53B-8a-102.5:
(i) that the corporation or a person other than the corporation makes into an account owned by the corporation during the taxable year;
(ii) to the extent that neither the corporation nor the person other than the corporation described in Subsection (1)(r)(i) deducts the qualified investment on a federal income tax return; and
(iii) to the extent the qualified investment does not exceed the maximum amount of the qualified investment that may be subtracted from unadjusted income for a taxable year in accordance with Subsection 53B-8a-106(1);
(s) for purposes of income included in a combined report under Part 4, Combined Reporting, the entire amount of the dividends a member of a unitary group receives or is considered to receive from a captive real estate investment trust;
(t) the increase in income for federal income tax purposes due to claiming a:
(i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or
(ii) qualified zone academy bond under Section 1397E, Internal Revenue Code;
(u) 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; and
(v) 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.
(2) For purposes of Subsection (1)(b):
(a) the subtraction shall be made by claiming the subtraction on a return filed:
(i) under this chapter for the taxable year for which the net capital loss is incurred; and
(ii) by the due date of the return, including extensions; and
(b) a net capital loss for a taxable year shall be:
(i) subtracted for the taxable year for which the net capital loss is incurred; or

(ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue Code.

(3)

(a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a taxpayer shall first subtract from a dividend considered to be received or received an expense directly attributable to that dividend.

(b) For purposes of Subsection (3)(a), the amount of an interest expense that is considered to be directly attributable to a dividend is calculated by multiplying the interest expense by a fraction:

(i) the numerator of which is the taxpayer's average investment in the dividend paying subsidiaries; and

(ii) the denominator of which is the taxpayer's average total investment in assets.

(c)

(i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in determining income apportionable to this state, a portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the combined report factors as provided in this Subsection (3)(c).

(ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be included in the combined report factors is calculated by multiplying each factor of the foreign subsidiary by a fraction:

(A) not to exceed 100%; and

(B)

(I) the numerator of which is the amount of the dividend paid by the foreign subsidiary that is included in adjusted income; and

(II) the denominator of which is the current year earnings and profits of the foreign subsidiary as determined under the Internal Revenue Code.

(d) A dividend described in Subsection (1)(k) includes amounts included in federal taxable income under Section 965(a), Internal Revenue Code and amounts included in federal taxable income under Section 951A, Internal Revenue Code.

(4)

(a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under Subsection (1)(l):

(i) if the taxpayer elects to file a worldwide combined report as provided in Section 59-7-403; or

(ii) for the following:

(A) income generated from intangible property; or

(B) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating company:

(i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

(ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a transaction that occurs between members of a unitary group.

(c) For purposes of the subtraction provided for in Subsection (1)(l), in determining income apportionable to this state, the factors for a foreign operating company shall be included in the combined report factors in the same percentages as the foreign operating company's adjusted income is included in the combined adjusted income.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes:

(i) income generated from intangible property; or

(ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is generated from an asset held for investment and not from a regular business trading activity.

(5)

(a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax credit is claimed if:

(i) there is a reduction in federal basis for a federal tax credit; and

(ii) there is no corresponding tax credit allowed in this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes an item similar to Subsections (1)(o)(i) through (iv).

Amended by Chapter 368, 2021 General Session
Amended by Chapter 370, 2021 General Session

59-7-107 Basis.

(1)

(a) For property acquired after December 31, 1993, basis shall be determined pursuant to the Internal Revenue Code without reference to Section 1502, Internal Revenue Code, or regulations promulgated under that section.

(b) Notwithstanding Subsection (1)(a), adjustments for basis in a combined report may be established by rules promulgated by the tax commission.

(2) For property acquired after December 31, 1930, but before January 1, 1994, basis shall be determined under Utah law in effect at the time the property was acquired.

(3)

(a) Except as provided in Subsection (3)(c), the basis for determining the gain or loss from the sale or other disposition of property acquired before January 1, 1931, shall be:

(i) the cost of such property or in the case of property acquired by gift or transfer in trust, the fair market value of such property at the time of such acquisition; or

(ii) the fair market value of such property as of January 1, 1931, whichever is greater.

(b) In determining the fair market value of stock in a corporation as of January 1, 1931, due regard shall be given to the fair market value of the assets of the corporation as of that date.

(c)

(i) In determining the basis for inventory acquired before January 1, 1931, if the property should have been included in the last inventory, the basis shall be the value of that property at the last inventory.

(ii) In determining the basis for bequests and devises acquired before January 1, 1931, if personal property was acquired by specific bequest, or if real property was acquired by general or specific devise, the basis shall be the fair market value of the property at the time of the death of the decedent. In all other cases if the property was acquired by will, the basis shall be the fair market value of the property at the time of the distribution to the taxpayer.

(iii) In determining the basis for property acquired before January 1, 1931, during affiliation in which a combined report is filed under either Section 59-7-402 or 59-7-403, the basis shall be determined in accordance with rules prescribed by the commission.

(4) If any property subject to taxation under this chapter was acquired before January 1, 1931, the basis of such property, if other than the fair market value as of January 1, 1931, shall be diminished in the amount of exhaustion, wear and tear, obsolescence, and depletion actually sustained before such date.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-108 Distributions by corporations.

(1)

(a) For purposes of this chapter, a distribution is made out of earnings or profits to the extent of the earnings or profits, and from the most recently accumulated earnings or profits.

(b)

(i) Subject to Subsection (1)(b)(ii), any earnings or profits accumulated or increase in value of property accrued before January 1, 1931, may be excluded from taxable income after the earnings and profits accumulated after December 31, 1930 have been distributed.

(ii) A distribution described in Subsection (1)(b)(i) shall be applied against and reduce the basis of the stock.

(2)

(a) Subject to Subsection (2)(b), if any distribution that is not in partial or complete liquidation is made by a corporation to its shareholders, is not out of increase in value of property accrued before January 1, 1931, and is not out of earnings or profits, the amount of the distribution shall be applied against and reduce the basis of the stock.

(b) If a distribution described in Subsection (2)(a) is in excess of the basis of the stock, the excess shall be treated as a gain from the sale or exchange of property.

Amended by Chapter 69, 2011 General Session

59-7-109 Charitable contributions.

(1) Except as provided in Subsection (2), a subtraction is allowed for charitable contributions made within the taxable year to organizations described in Section 170(c), Internal Revenue Code.

(2) The aggregate amount of charitable contributions deductible under this section may not exceed 10% of the taxpayer's apportionable income. The limitation imposed in this subsection shall be calculated on a combined basis in a combined report.

(3) Any charitable contribution made in a taxable year beginning on or after January 1, 1994, which is in excess of the amount allowed as a deduction under Subsection (2) may be carried over to the five succeeding taxable years in the same manner as allowed under federal law.

Amended by Chapter 311, 1995 General Session

59-7-109.1 Charitable contributions to the Carson Smith Opportunity Scholarship Program.

(1) Notwithstanding anything to the contrary in Section 59-7-109, a taxpayer may not subtract a charitable contribution that meets the requirements of Section 59-7-109 to the extent that the taxpayer claims a tax credit under Section 59-7-625 for the same charitable contribution.

(2) This section supersedes any conflicting provisions of Utah law.

Amended by Chapter 466, 2024 General Session

59-7-110 Utah net loss -- Carry forward -- Deduction.

(1) A taxpayer shall determine the amount of Utah net loss that the taxpayer may carry forward to offset income of another taxable year as provided in this section.

(2) Subject to the other provisions of this section, a taxpayer:

(a) may carry forward a Utah net loss from a taxable year beginning on or after January 1, 2008, to a future taxable year until the Utah net loss is exhausted; and
(b) may not carry back a Utah net loss from a taxable year.
(3) A taxpayer that carries forward a Utah net loss shall carry forward the Utah net loss to the earliest eligible year for which the Utah taxable income before net loss deduction, minus Utah net losses from previous years that a taxpayer applied or was required to apply to offset income, is not less than zero.
(4)
(a) Subject to Subsection (4)(b), the amount of Utah net loss that a taxpayer may carry to the year identified in Subsection (3) is the lesser of:
(i) the remaining Utah net loss after deduction of any amounts of the Utah net loss that a taxpayer carried to previous years; or
(ii) the remaining Utah taxable income before net loss deduction of the year identified in Subsection (3) after deduction of Utah net losses from previous years that a taxpayer carried or was required to carry to the year identified in Subsection (3).
(b)
(i) For a Utah net loss carried forward to a taxable year beginning on or after January 1, 2023, the amount of Utah net loss that a taxpayer may carry forward to a taxable year may not exceed 80% of Utah taxable income calculated before deducting any Utah net loss from Utah taxable income.
(ii) A taxpayer may carry a remaining Utah net loss to one or more taxable years in accordance with this section.
(5)
(a)
(i) Subject to Subsection (5)(a)(ii), a corporation acquiring the assets or stock of another corporation may not deduct any net loss incurred by the acquired corporation prior to the date of acquisition.
(ii) Subsection (5)(a)(i) does not apply if the only change in the corporation is that of the state of incorporation.
(b) An acquired corporation may deduct the acquired corporation's net losses incurred before the date of acquisition against the acquired corporation's separate income as calculated under Subsections (6) and (7) if the acquired corporation has continued to carry on a trade or business substantially the same as that conducted before the acquisition.
(6) For purposes of Subsection (5)(b), the amount of net loss an acquired corporation that is acquired by a unitary group may deduct is calculated by:
(a) subject to Subsection (7):
(i) calculating the sum of:
(A) an amount determined by dividing the average value of the acquired corporation's real and tangible personal property owned or rented and used in this state during the taxable year by the average value of all of the unitary group's real and tangible personal property owned or rented and used during the taxable year;
(B) an amount determined by dividing the total amount paid in this state during the taxable year by the acquired corporation for compensation by the total compensation paid everywhere by the unitary group during the taxable year; and
(C) an amount determined by dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year; or

(ii) if the unitary group is required or elects to calculate the fraction for apportioning business income to this state using the method described in Subsection 59-7-311(2), calculating an amount determined by dividing the total sales of the acquired corporation in this state during the taxable year by the total sales of the unitary group everywhere during the taxable year;
(b) dividing the amount calculated under Subsection (6)(a) by the same denominator of the fraction the unitary group uses to apportion business income to this state for that taxable year in accordance with Section 59-7-311;
(c) multiplying the amount calculated under Subsection (6)(b) by the business income of the unitary group for the taxable year that is subject to apportionment under Section 59-7-311; and
(d) calculating the sum of:
(i) the amount calculated under Subsection (6)(c); and
(ii) the following amounts allocable to the acquired corporation for the taxable year:
(A) nonbusiness income allocable to this state; or
(B) nonbusiness loss allocable to this state.
(7) The amounts calculated under Subsection (6)(a) shall be derived in the same manner as those amounts are derived for purposes of apportioning the unitary group's business income before deducting the net loss, including a modification made in accordance with Section 59-7-320.

Amended by Chapter 506, 2023 General Session

59-7-111 Safe harbor lease provisions.
(1)
(a) For purchasers or lessors of safe harbor leases, the following additions shall be made to unadjusted income:
(i) interest expense; and
(ii) depreciation claimed on safe harbor lease property.
(b) For purchasers or lessors of safe harbor leases, the following subtractions shall be made from unadjusted income:
(i) rental income; and
(ii) amortization of the purchase price of tax benefits.
(2)
(a) For sellers or lessees of safe harbor leases the following additions shall be made from unadjusted income:
(i) the amount of gain on the sale of federal tax benefits; and
(ii) rental expense on safe harbor lease property.
(b) For sellers or lessees of safe harbor leases the following subtractions shall be made to unadjusted income:
(i) interest income; and
(ii) depreciation on safe harbor lease property.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-112 Installment sales.
(1) Except as provided in Subsections (2) and (3), installment sales shall be governed by Sections 453, 453A, and 453B, Internal Revenue Code.
(2) Installment sales entered into prior to January 1, 1994, shall be recognized as originally reported.

(3) If a corporation is no longer required to file a Utah corporate return, any taxes owed by that corporation on installment sales entered into by that corporation shall accelerate and be due on the corporation's last return filed in Utah.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-113 Allocation of income and deductions between several corporations controlled by same interests.

If two or more corporations (whether or not organized or doing business in this state, and whether or not affiliated) are owned or controlled directly or indirectly by the same interests, the commission is authorized to distribute, apportion, or allocate gross income or deductions between or among such corporations, if it determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such corporations.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-114 Section 338, Internal Revenue Code -- Elections.

(1) Transactions for which an election has been made or considered to be made for federal purposes under Section 338, Internal Revenue Code, shall be treated as provided in this section. An election is not available for state purposes unless an election is made or considered to be made for federal purposes.

(2) If an election is made or considered to be made for federal purposes under Section 338, Internal Revenue Code, other than under Subsection 338(h)(10):

(a) the target corporation shall file a separate entity one-day tax return for state purposes, as is required for federal purposes, and shall include in such return the gain or loss on the deemed sale of assets in its adjusted income;

(b) the gain or loss on the deemed sale of assets shall be apportioned to this state using the apportionment fraction of the target corporation calculated on a separate entity basis for the most recent preceding taxable year consisting of 180 days or more; and

(c) the due date of the one-day return shall be the same as the due date of the return which includes the taxable period of the target corporation which immediately precedes the one-day return.

(3) If an election is made for federal purposes under Subsection 338(h)(10), Internal Revenue Code, the following shall apply:

(a) if the target corporation is a member of a unitary group immediately preceding the acquisition date, the target corporation shall be included in a combined return to the extent of its income through the acquisition date, and the gain or loss on the deemed sale of assets shall be included in the combined income of the unitary group;

(b) if the target corporation is not a member of a unitary group immediately preceding the acquisition date, the target corporation shall file a short period return for the period ending on the acquisition date and shall include in such return the gain or loss on the deemed sale of assets in its adjusted income; and

(c) any gain or loss which is not recognized for federal purposes on stock sold or exchanged by a member of a selling consolidated group as defined in Section 338, Internal Revenue Code, may not be included in the adjusted income of the selling corporation.

(4) There is a rebuttable presumption that the gain or loss on the deemed sale of assets constitutes business income.

(5) The new basis of the target corporation's assets shall be determined under Section 338, Internal Revenue Code.
(6) The target corporation shall be treated as a new corporation as of the day after the acquisition date.
(7) The commission may prescribe such rules as necessary to provide for the equitable treatment of any transaction subject to Section 338, Internal Revenue Code.

Amended by Chapter 9, 2001 General Session

59-7-115 Section 336(e), Internal Revenue Code -- Elections.
(1) Transactions for which an election has been made for federal purposes under Section 336(e), Internal Revenue Code, shall be treated as provided in this section. An election is not available for state purposes unless an election is made for federal purposes.
(2) If an election is made under Section 336(e), Internal Revenue Code, the following shall apply:
(a) if the corporation is treated for federal purposes as having disposed of all of its assets and is a member of a unitary group immediately preceding the date of sale, the corporation shall be included in a combined return to the extent of its income through the date of sale, and the gain or loss on the deemed disposal of assets shall be included in the combined income of the unitary group;
(b) if the corporation is treated for federal purposes as having disposed of all of its assets and is not a member of a unitary group immediately preceding the date of sale, the corporation shall file a short period return for the period ending on the date of sale and shall include in such return the gain or loss on the deemed disposal of assets in its adjusted income; and
(c) any gain or loss which is not recognized for federal purposes on stock sold, exchanged, or distributed by a corporation pursuant to Section 336(e), Internal Revenue Code, may not be included in adjusted income.
(3) There is a rebuttable presumption that the gain or loss on the deemed disposition of assets constitutes business income.
(4) The new basis of assets of the corporation which is treated as having disposed of its assets shall be the same as determined for federal purposes.
(5) The corporation which is treated as having disposed of its assets shall be treated as a new corporation as of the day after the date of sale.
(6) The commission may prescribe such rules as necessary to provide for the equitable treatment of any transaction subject to Section 336(e), Internal Revenue Code.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-116 Taxation of regulated investment companies.
(1) A regulated investment company or a fund of such a company, as defined in Sections 851(a) or 851(g), Internal Revenue Code, which is organized under the laws of Utah, shall determine Utah taxable income as follows:
(a) calculate investment company taxable income, as determined in Section 852(b)(2), Internal Revenue Code;
(b) add any municipal interest and the exclusion of net capital gain provided in Section 852(b)(2)(A), Internal Revenue Code; and
(c) subtract the deduction for the capital gain dividends and exempt interest dividends as defined in Sections 852(b)(3)(C) and 852(b)(5), Internal Revenue Code.

(2) A regulated investment company which is organized under the laws of Utah or a fund of such a company, shall be taxed at the same rate and in the same manner as a corporation as provided in this chapter.

Amended by Chapter 250, 2008 General Session

59-7-116.5 Real estate investment trusts.

(1) A real estate investment trust that is not a captive real estate investment trust shall be taxed on the same income taxed for federal purposes under the Internal Revenue Code.
(2) Any income taxable under this section shall be taxed at the same rate and in the same manner provided for in this chapter.

Amended by Chapter 389, 2008 General Session

59-7-117 Equitable adjustments.

The commission shall by rule prescribe for adjustments to Utah taxable income when, solely by reason of the enactment of this chapter, a taxpayer would otherwise receive or have received a double tax benefit or suffer or have suffered a double tax detriment. However, the commission may not make any adjustment pursuant to this section which will result in an increase or decrease of tax liability that is less than $25.

Repealed and Re-enacted by Chapter 169, 1993 General Session

59-7-118 Section 965, Internal Revenue Code -- Installment payments.

(1) Subject to the other provisions of this section, a corporation may pay in installments the tax owed under this chapter on deferred foreign income described in Section 965, Internal Revenue Code.
(2) Subsection (1) applies:
  (a) to a corporation that:
    (i) is authorized to make an election under Section 965(h), Internal Revenue Code; and
    (ii) apportions deferred foreign income described in Section 965, Internal Revenue Code, to this state; and
  (b) for a tax year in which a corporation makes an election under Section 965(h), Internal Revenue Code, for purposes of the corporation's federal income tax.
(3)
  (a) Except as provided in Subsection (3)(b), the same provisions that apply to an election made under Section 965(h), Internal Revenue Code, for federal purposes apply to an installment payment made under this section.
  (b) A corporation shall make:
    (i) the first installment under this section on or before the due date of the tax return filed under this chapter for the first taxable year in which the corporation reports deferred foreign income described in Section 965, Internal Revenue Code; and
    (ii) a subsequent installment on or before the due date of the tax return filed under this chapter in each of the following seven years.

Amended by Chapter 367, 2021 General Session

59-7-159 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 59-7-601;
(ii) Section 59-7-607;
(iii) Section 59-7-612;
(iv) Section 59-7-614.1; and
(v) Section 59-7-614.5.
(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 59-7-609;
(ii) Section 59-7-614.2;
(iii) Section 59-7-614.10; and
(iv) Section 59-7-619.
(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 59-7-610;
(ii) Section 59-7-614; and
(iii) Section 59-7-614.7.
(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 264, 2022 General Session
Amended by Chapter 274, 2022 General Session

Part 2
Corporate Income Tax

59-7-201 Tax -- Minimum tax.

(1) There is imposed upon each corporation, except a corporation that is exempt under Section 59-7-102, a tax upon the corporation's Utah taxable income for the taxable year that is derived from sources within this state other than income for any period that the corporation is required to include in the corporation's tax base under Section 59-7-104.
(2) The tax imposed by Subsection (1) shall be 4.55% of a corporation's Utah taxable income.
(3) In no case shall the tax be less than $100.

Amended by Chapter 255, 2024 General Session

59-7-203 Computation of Utah taxable income.

For purposes of the tax imposed by this part, Utah taxable income shall be determined in accordance with Part 1, Corporate Tax Generally, except that wherever the date December 31, 1930 appears, the date December 31, 1958 shall be substituted, and wherever the date January 1, 1931 appears, the date January 1, 1959 shall be substituted.

Amended by Chapter 169, 1993 General Session

59-7-204 Income attributed to sources within the state.

For the purposes of the tax imposed by this part, the portion of Utah taxable income derived from or attributable to sources within this state shall be determined in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions and Part 4, Combined Reporting.

Amended by Chapter 4, 1993 General Session
Amended by Chapter 169, 1993 General Session

59-7-205 Applicability of Parts 5 and 6 of chapter.

For purposes of the tax imposed by this part, Part 5, Procedures and Administration and Part 6, Credits, shall apply.

Amended by Chapter 169, 1993 General Session

59-7-206 Offsets against tax.

There shall be offset against the tax imposed by this part for any period the amount of any tax imposed on the taxpayer under Section 59-7-104 for the same period. In the event that taxes, interest, and penalties have been or shall be assessed against, paid by, or collected from a taxpayer under Section 59-7-201, which assessment, payment, or collection should have been made under Section 59-7-104, such taxes, interest, and penalties shall be considered as having been assessed, paid, or collected under Section 59-7-104 as of the dates they were made.

Amended by Chapter 169, 1993 General Session

59-7-207 Corporations becoming subject to tax -- Assessment under other sections.

If a corporation formerly subject to tax under Section 59-7-104 becomes subject to tax under this part, it shall file an information return for the income year in which the change occurs. The tax for the year in which the change occurs will be assessed under Section 59-7-104 and not under Section 59-7-201. For years subsequent to the year in which the change occurs, the tax will be assessed under Section 59-7-201.

Amended by Chapter 169, 1993 General Session

59-7-208 Provisions followed for purposes of tax collected.

For the purposes of the taxes collected under this part, and interest and penalties arising in connection therewith, the provisions of Section 59-7-532 shall be followed.

Amended by Chapter 169, 1993 General Session

Part 3
Allocation and Apportionment of Income - Utah UDITPA Provisions

59-7-302 Definitions -- Determination of taxpayer status.

(1) As used in this part, unless the context otherwise requires:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline" means the same as that term is defined in Section 59-2-102.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.

(d) "Business income" means income that:

(i) is apportionable under the United States Constitution and is not allocated under the laws of this state, including income arising from:

(A) a transaction or activity in the regular course of the taxpayer's trade or business; and

(B) tangible and intangible property, if the acquisition, management, employment, development, or disposition of the property is or was related to the operation of the taxpayer's trade or business; or

(ii) would be allocable to this state under the United States Constitution, but is apportioned rather than allocated in accordance with the laws of this state.

(e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) "Excluded NAICS code" means a NAICS code of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, within:
(i) NAICS Code 211120, Crude Petroleum Extraction;
(ii) NAICS Industry Group 2121, Coal Mining;
(iii) NAICS Industry Group 2212, Natural Gas Distribution;
(iv) NAICS Subsector 311, Food Manufacturing;
(v) NAICS Industry Group 3121, Beverage Manufacturing;
(vi) NAICS Code 327310, Cement Manufacturing;
(vii) NAICS Subsector 482, Rail Transportation;
(viii) NAICS Code 512110, Motion Picture and Video Production;
(ix) NAICS Subsection 515, Broadcasting (except Internet); or
(x) NAICS Code 522110, Commercial Banking.
(h)
(i) Except as provided in Subsection (1)(h)(ii), "mobile flight equipment" means the same as that term is defined in Section 59-2-102.
(ii) "Mobile flight equipment" does not include:
(A) a spare engine; or
(B) tangible personal property described in Subsection 59-2-102(25) owned by an air charter service or an air contract service.
(i) "Nonbusiness income" means all income other than business income.
(j) "Optional apportionment taxpayer" means a taxpayer described in Subsection (3).
(k) "Phased-in sales factor weighted taxpayer" means a taxpayer that:
(i) is not a sales factor weighted taxpayer;
(ii) does not meet the definition of an optional apportionment taxpayer; or
(iii) for a taxable year beginning on or after January 1, 2020:
(A) meets the definition of an optional apportionment taxpayer; and
(B) apportioned business income using the method described in Subsection 59-7-311(4) during the previous taxable year.
(l) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.
(m) "Sales" means all gross receipts of the taxpayer not allocated under Sections 59-7-306 through 59-7-310.
(n) "Sales factor weighted taxpayer" means a taxpayer described in Subsection (2).
(o) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.
(p) "Transportation revenue" means revenue an airline earns from:
(i) transporting a passenger or cargo; or
(ii) from miscellaneous sales of merchandise as part of providing transportation services.
(q) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:
(i) during the airline's tax period; and
(ii) from flight stages that originate or terminate in this state.
(2)
(a) A taxpayer is a sales factor weighted taxpayer if the taxpayer apportioned business income using the method described in Subsection 59-7-311(2) during the previous taxable year or if, regardless of the number of economic activities the taxpayer performs, the taxpayer generates greater than 50% of the taxpayer's total sales everywhere from economic

activities that are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, other than:
(i) a NAICS code within NAICS Sector 21, Mining;
(ii) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;
(iii) a NAICS code within NAICS Sector 31-33, Manufacturing, except:
(A) NAICS Industry Group 3254, Pharmaceutical and Medicine Manufacturing;
(B) NAICS Industry Group 3333, Commercial and Service Industry Machinery Manufacturing;
(C) NAICS Subsector 334, Computer and Electronic Product Manufacturing; and
(D) NAICS Code 336111, Automobile Manufacturing;
(iv) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;
(v) a NAICS code within NAICS Sector 51, Information, except NAICS Subsector 519, Other Information Services; or
(vi) a NAICS code within NAICS Sector 52, Finance and Insurance.
(b) A taxpayer shall determine if the taxpayer is a sales factor weighted taxpayer each year before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.
(c) For purposes of making the determination required by Subsection (2)(a), total sales everywhere include only the total sales everywhere:
(i) as determined in accordance with this part; and
(ii) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a).
(3)
(a) A taxpayer is an optional apportionment taxpayer if the average calculated in accordance with Subsection (3)(b) is greater than .50.
(b) To calculate the average described in Subsection (3)(a), a taxpayer shall:
(i) calculate the following two fractions:
(A) the property factor fraction as described in Subsection 59-7-312(3); and
(B) the payroll factor fraction as described in Subsection 59-7-315(3);
(ii) add together the fractions described in Subsection (3)(b)(i); and
(iii) divide the sum calculated in Subsection (3)(b)(ii):
(A) except as provided in Subsection (3)(b)(iii)(B), by two; or
(B) if either the property factor fraction or the payroll factor fraction has a denominator of zero or is excluded in accordance with Subsection 59-7-312(3)(b) or 59-7-315(3)(b), by one.
(c) A taxpayer shall determine if the taxpayer is an optional apportionment taxpayer before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.
(4) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.
(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term "economic activity" consistent with the use of the term "activity" in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

Amended by Chapter 228, 2022 General Session

59-7-303 Apportionable income.

(1) Any taxpayer having income from business activity which is taxable both within and without this state shall allocate and apportion the taxpayer's adjusted income as provided in this part.
(2) Any taxpayer having income solely from business activity taxable within this state shall allocate or apportion the taxpayer's entire adjusted income to this state.
(3)
  (a) Notwithstanding Subsections (1) and (2), for a taxable year beginning on or after January 1, 2022, a taxpayer may elect to treat all of the taxpayer's income from sales of intangible property as business income.
  (b) A taxpayer shall make the election described in Subsection (3)(a) on or before the deadline for filing a return under an extension of time described in Section 59-7-505.
  (c) An election under this Subsection (3) is irrevocable.

Amended by Chapter 228, 2022 General Session

59-7-305 When taxable in another state.

For purposes of allocation and apportionment of income under this part, a taxpayer is taxable in another state if:
(1) in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or
(2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

Renumbered and Amended by Chapter 2, 1987 General Session

59-7-306 Allocation of certain nonbusiness income.

Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in Sections 59-7-307 through 59-7-310.

Renumbered and Amended by Chapter 2, 1987 General Session

59-7-307 Allocation of rents and royalties.

(1) To the extent that the following constitute nonbusiness income:
  (a) net rents and royalties from real property located in this state are allocable to this state; and
  (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.
(2) 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. 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.

Amended by Chapter 83, 1994 General Session

59-7-308 Allocation of capital gains and losses.

To the extent that the following constitute nonbusiness income:

(1) capital gains and losses from sales of real property located in this state are allocable to this state;

(2) capital gains and losses from sales of tangible personal property are allocable to this state if:

(a) the property had a situs in this state at the time of the sale; or

(b) 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; and

(3) 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.

Amended by Chapter 83, 1994 General Session

59-7-309 Allocation of interest and dividends.

To the extent they constitute nonbusiness income, interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

Amended by Chapter 83, 1994 General Session

59-7-310 Allocation of patent and copyright royalties.

(1) To the extent they constitute nonbusiness income, patent and copyright royalties are allocable to this state:

(a) if and to the extent that the patent or copyright is utilized by the payer in this state; or

(b) 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.

(2) A patent is utilized in a state to the extent that it 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. 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.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

Amended by Chapter 83, 1994 General Session

59-7-311 Method of apportionment of business income.

(1) For a taxable year, a taxpayer shall apportion all business income to this state by multiplying the business income by a fraction calculated as provided in this section.

(2) Subject to the other provisions of this part, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state using a fraction where:

(a) the numerator of the fraction is the sales factor as calculated under Section 59-7-317; and

(b) the denominator of the fraction is one.

(3) Subject to the other provisions of this part, an optional apportionment taxpayer that is not a phased-in sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state using one of the following fractions:

(a) the fraction described in Subsection (4); or
(b) the fraction where:
(i) the numerator of the fraction is the sum of:
(A) the property factor as calculated under Section 59-7-312;
(B) the payroll factor as calculated under Section 59-7-315; and
(C) the sales factor as calculated under Section 59-7-317; and
(ii) the denominator of the fraction is three.
(4)
(a) Subject to other provisions of this part, a phased-in sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state as provided in Subsections (4)(b) through (d).
(b) For the taxable year that begins on or after January 1, 2019, but begins on or before December 31, 2019:
(i) the numerator of the fraction is the sum of:
(A) the property factor as calculated under Section 59-7-312;
(B) the payroll factor as calculated under Section 59-7-315; and
(C) the sales factor as calculated under Subsection (4)(e)(i); and
(ii) the denominator of the fraction is six.
(c) For the taxable year that begins on or after January 1, 2020, but begins on or before December 31, 2020:
(i) the numerator of the fraction is the sum of:
(A) the property factor as calculated under Section 59-7-312;
(B) the payroll factor as calculated under Section 59-7-315; and
(C) the sales factor as calculated under Subsection (4)(e)(ii); and
(ii) the denominator of the fraction is 10.
(d) For a taxable year that begins on or after January 1, 2021, a phased-in sales factor weighted taxpayer shall calculate the fraction as described in Subsection (2).
(e)
(i) For the taxable year that begins on or after January 1, 2019, but begins on or before December 31, 2019, the sales factor shall be:
(A) calculated as described in Section 59-7-317; and
(B) multiplied by four.
(ii) For the taxable year that begins on or after January 1, 2020, but begins on or before December 31, 2020, the sales factor shall be:
(A) calculated as described in Section 59-7-317; and
(B) multiplied by eight.
(5)
(a) The taxpayer shall determine the method for calculating the fraction for apportioning business income to this state under this section on or before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.
(b) The method described in Subsection (5)(a) is in effect for the taxable year.
(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for a taxpayer to make the election required by Subsection (3).

Amended by Chapter 456, 2018 General Session
Amended by Chapter 471, 2018 General Session

59-7-312 Property factor for apportionment of business income -- Mobile flight equipment of an airline.

(1) Except as provided in Subsections (2) and (3), the property factor is a fraction:
  (a) the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period; and
  (b) the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.
(2) The average value of an airline's real and tangible personal property owned or rented and used in this state attributable to mobile flight equipment for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by multiplying:
  (a) the total average value of the airline's mobile flight equipment of the aircraft type owned or rented and used during the tax period; and
  (b) a fraction:
    (i) the numerator of which is the Utah revenue ton miles for the aircraft type; and
    (ii) the denominator of which is the airline revenue ton miles for the aircraft type.
(3)
  (a) For purposes of Subsection 59-7-302(3)(b)(i)(A) and subject to Subsection (3)(b), the property factor is a fraction:
    (i) the numerator of which is the value of the property in this state that is attributable to economic activities that are classified in an excluded NAICS code; and
    (ii) the denominator of which is the value of all property in this state.
  (b) A taxpayer shall exclude property from the calculation of the property factor fraction described in Subsection (3)(a) if the property may be attributed to economic activities in both excluded NAICS codes and NAICS codes that are not excluded NAICS codes.

Amended by Chapter 456, 2018 General Session
Amended by Chapter 471, 2018 General Session

59-7-313 Valuation of property for inclusion in property factor.

(1) Property owned by the taxpayer is valued at its original cost.
(2) Property rented by the taxpayer is valued at eight times the net annual rental rate.
(3) Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.
(4) Property owned or rented by an airline is valued as provided in this section, subject to the calculation required by Subsection 59-7-312(2).

Amended by Chapter 283, 2008 General Session

59-7-314 Averaging property values for inclusion in property factors.

(1) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period or averaging of monthly values during the tax period if monthly averaging more clearly reflects the average value of the taxpayer's property.
(2) The average value of property of an airline is valued as provided in this section, subject to the calculation required by Subsection 59-7-312(2).

Amended by Chapter 283, 2008 General Session

59-7-315 Payroll factor for apportionment of business income -- Compensation of flight personnel by an airline.

(1) Except as provided in Subsections (2) and (3), the payroll factor is a fraction:
  (a) the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation; and
  (b) the denominator of which is the total compensation paid everywhere during the tax period.
(2) The total amount paid in this state during the tax period by an airline for compensation attributable to the compensation of flight personnel for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by multiplying:
  (a) the total amount paid during the tax period by the airline to flight personnel for compensation for the aircraft type; and
  (b) a fraction:
    (i) the numerator of which is the Utah revenue ton miles for the aircraft type; and
    (ii) the denominator of which is the airline revenue ton miles for the aircraft type.
(3)
  (a) For purposes of Subsection 59-7-302(3)(b)(i)(B) and subject to Subsection (3)(b), the payroll factor is a fraction:
    (i) the numerator of which is the amount of the payroll in this state that is attributable to economic activities that are classified in an excluded NAICS code; and
    (ii) the denominator of which is the total amount of the payroll in this state.
  (b) A taxpayer engaged in economic activities that are classified in an excluded NAICS code shall exclude an individual's payroll from the calculation of the payroll factor fraction described in Subsection (3)(a) if the individual's payroll may be attributed:
    (i) to economic activities in both excluded NAICS codes and NAICS codes that are not excluded NAICS codes; or
    (ii) to providing management, information technology, finance, accounting, legal, or human resource services.

Amended by Chapter 456, 2018 General Session
Amended by Chapter 471, 2018 General Session

59-7-316 Determination of compensation for inclusion in payroll factor.

(1) Compensation is paid in this state if:
  (a) the individual's service is performed entirely within the state;
  (b) the individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or
  (c) some of the service is performed in the state and:
    (i) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or
    (ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.
(2) Whether compensation paid by an airline is paid in this state is determined as provided in this section, subject to the calculation required by Subsection 59-7-315(2).

Amended by Chapter 283, 2008 General Session

59-7-317 Sales factor for apportionment of business income -- Transportation revenues of an airline.

(1) Except as provided in Subsection (2), the sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.
(2) The total sales of an airline in this state during the tax period attributable to transportation revenues in this state during the tax period for purposes of the numerator of the fraction described in Subsection (1) shall be calculated by determining the product of:
(a) the total transportation revenues during the tax period of the airline; and
(b) a fraction, the numerator of which is the Utah revenue ton miles and the denominator of which is the airline revenue ton miles.

Amended by Chapter 283, 2008 General Session

59-7-318 Sales of tangible personal property.

(1) Sales of tangible personal property are in this state if:
(a) the property is delivered or shipped to a purchaser, other than the United States Government, within this state regardless of the f.o.b. point or other conditions of the sale; or
(b)
(i) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state; and
(ii)
(A) the purchaser is the United States Government; or
(B) the taxpayer is not taxable in the state of the purchaser.
(2) Whether sales of tangible personal property by an airline are in this state is determined as provided in this section, subject to the calculation required by Subsection 59-7-317(2).

Amended by Chapter 283, 2008 General Session

59-7-319 Circumstances under which a receipt, rent, royalty, or sale is considered to be in this state.

(1)
(a) Subject to Subsection (1)(b), as used in this section, "regulated investment company" is as defined in Section 851(a), Internal Revenue Code, in effect for the taxable year.
(b) "Regulated investment company" includes a trustee or sponsor of an employee benefit plan that has an account in a regulated investment company.
(2) The following are considered to be in this state:
(a) a rent in connection with:
(i) real property if the real property is in this state; or
(ii) tangible personal property if the tangible personal property is in this state;
(b) a royalty in connection with real property if the real property is in this state;
(c) a sale in connection with real property if the real property is in this state; or
(d) other income in connection with real property or tangible personal property if the real property or tangible personal property is in this state.
(3)
(a) Subject to Subsection (3)(b), a receipt from the performance of a service is considered to be in this state if the purchaser of the service receives a greater benefit of the service in this state than in any other single:

(i) foreign country; or
(ii) state, as defined in Section 68-3-12.5.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule prescribe the circumstances under which a purchaser of a service receives a greater benefit of the service in this state than in any other single:
(i) foreign country; or
(ii) state, as defined in Section 68-3-12.5.
(4)
(a) Subject to Subsection (4)(b), a receipt in connection with intangible property is considered to be in this state if the intangible property is used in this state.
(b) If the intangible property described in Subsection (4)(a) is used in this state and outside this state, a receipt in connection with the intangible property shall be apportioned to this state in accordance with Subsection (4)(c).
(c) For purposes of Subsection (4)(b), for a taxable year the percentage of a receipt in connection with intangible property that is considered to be in this state is the percentage of the use of the intangible property that occurs in this state during the taxable year.
(5)
(a) Notwithstanding Subsections (2) through (4), a sale, other than a sale of tangible personal property, derived, directly or indirectly, from the sale of management, distribution, or administration services to, or on behalf of a regulated investment company, is considered to be in this state:
(i) to the extent that shareholders of the regulated investment company are domiciled in the state; and
(ii) as provided in this Subsection (5).
(b) For purposes of Subsection (5)(a), the amount of a sale, other than a sale of tangible personal property, that is considered to be in this state is calculated by determining the product of:
(i) the taxpayer's total dollar amount of sales of the services; and
(ii) a fraction, the numerator of which is the average of the sum of the beginning of the year and the end of year balance of shares owned by the investment company shareholders domiciled in this state and the denominator of which is the average of the sum of the beginning of the year and end of year balance of shares owned by the investment company shareholders.
(c) A separate computation shall be made to determine the sales for each investment company.
(6)
(a) Notwithstanding Subsections (2) through (4) and subject to Subsection (6)(b), the following sales are considered to be in this state to the extent that customers of a securities brokerage business are domiciled in the state:
(i) a sale, other than a sale of tangible personal property, derived, directly or indirectly, from the sale of a securities brokerage service by a taxpayer if that taxpayer is primarily engaged in providing a service in this state to a regulated investment company; or
(ii) a sale, other than a sale of tangible personal property, derived, directly or indirectly, from the sale of a securities brokerage service by a taxpayer that is an affiliate of a taxpayer that provides a service in this state to a regulated investment company.
(b) For purposes of Subsection (6)(a), the amount of a sale, other than a sale of tangible personal property, that is considered to be in this state is calculated by determining the product of:
(i) the taxpayer's total dollar amount of sales of securities brokerage services; and

(ii) a fraction, the numerator of which is the receipts from securities brokerage services from customers of the taxpayer domiciled in this state, and the denominator of which is the receipts from securities brokerage services from all customers of the taxpayer.

(7) Whether sales by an airline, other than sales of tangible personal property, are in this state is determined as provided in this section, subject to the calculation required by Subsection 59-7-317(2).

Amended by Chapter 418, 2019 General Session

59-7-320 Equitable adjustment of standard allocation or apportionment.

Notwithstanding any other provision of this part, if the allocation and apportionment provisions of this part do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the commission may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(1) separate accounting;
(2) the exclusion of any one or more of the factors;
(3) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or
(4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Amended by Chapter 225, 2005 General Session

59-7-321 Construction.

This part shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Renumbered and Amended by Chapter 2, 1987 General Session

Part 4
Combined Reporting

59-7-401 Determining threshold level of business activity for corporations organized or incorporated outside of the United States.

(1) Except as provided in Subsection (2), in determining whether a corporation is a foreign operating company or has met the threshold level of business activity, business activity within and without the United States shall be measured by means of the factors ordinarily applicable under Sections 59-7-312 through 59-7-319.

(2)

(a) Any taxpayer who would ordinarily be required to apportion business income in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions, shall use a two-factor formula of property and payroll.

(b) The results of the property and payroll factor computation shall be divided by two, or by one if either the property or payroll factor has a denominator of zero.

Amended by Chapter 225, 2005 General Session

59-7-402 Water's edge combined report.

(1) Except as provided in Section 59-7-403, if any corporation listed in Subsection 59-7-101(40)(a) is doing business in Utah, the unitary group shall file a water's edge combined report.

(2)

(a) A group of corporations that are not otherwise a unitary group may elect to file a water's edge combined report if each member of the group is:

(i) doing business in Utah;

(ii) part of the same affiliated group; and

(iii) qualified, under Section 1501, Internal Revenue Code, to file a federal consolidated return.

(b) Each corporation within the affiliated group that is doing business in Utah must consent to filing a combined report. If an affiliated group elects to file a combined report, each corporation within the affiliated group that is doing business in Utah must file a combined report.

(c) Corporations that elect to file a water's edge combined report under this section may not thereafter elect to file a separate return without the consent of the commission.

Amended by Chapter 368, 2021 General Session

59-7-403 Worldwide combined report.

(1) A unitary group may elect to file a worldwide combined report.

(2) Corporations electing to file a worldwide combined report may not thereafter elect to file a return on a basis other than a worldwide combined report without the consent of the commission.

Enacted by Chapter 169, 1993 General Session

59-7-404 Calculation of unadjusted income for combined reporting.

(1) A group filing a combined report under Section 59-7-402 or 59-7-403 shall calculate unadjusted income of the combined group by:

(a) computing unadjusted income on a separate return basis;

(b) combining income or loss of the members included in the combined report; and

(c) making appropriate eliminations and adjustments between members included in the combined report.

(2) For purposes of this section, if an entity does not calculate federal taxable income, then unadjusted income shall be calculated based on the applicable federal tax laws.

Amended by Chapter 83, 1994 General Session

59-7-404.5 Adjustment to apportionment factors for corporations in a combined report -- Sales factor -- Property factor.

For purposes of apportionment under Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions:

(1) corporations filing a combined report under Section 59-7-402 or 59-7-403 may not include intercompany sales or other intercompany transactions between the corporations included in the combined report in determining the sales factor;

(2) corporations filing a combined report under Section 59-7-402 or 59-7-403 may not include intercompany rents or other intercompany transactions between the corporations included in the combined report in determining the property factor; and
(3) the amounts of the numerators in this state of the property, payroll, and sales factors of an out-of-state business, as defined in Section 53-2a-1202, that are directly related to disaster- or emergency-related work, as defined in Section 53-2a-1202, during a disaster period, as defined in Section 53-2a-1202, may not be included in the apportionment fraction of the combined group.

Amended by Chapter 376, 2014 General Session

59-7-405 Commission empowered to make rules.

The commission shall prescribe such rules as necessary to reflect a corporation's tax liability and to prevent avoidance of corporate tax liability in accordance with the provisions of this part.

Enacted by Chapter 169, 1993 General Session

Part 5
Procedures and Administration

59-7-501 Accounting periods -- Methods of accounting.

(1) Utah taxable income shall be computed upon the basis of:
  (a) the same taxable period used for federal income tax purposes;
  (b) the corporation's annual accounting period if the corporation did not file a federal income tax return; or
  (c) the calendar year if the corporation has an annual accounting period other than a fiscal year, has no annual accounting period, or does not keep books, and does not file a federal income tax return.
(2)
  (a) Utah taxable income shall be computed under the method of accounting on the basis of which the corporation computes:
    (i) its income for federal income tax purposes; or
    (ii) its income in keeping its books if the corporation did not file a federal income tax return.
  (b) If no method of accounting has been regularly used by the corporation or if the method employed does not clearly reflect Utah taxable income computed and apportioned to this state for the taxable year, Utah taxable income shall be computed in accordance with a method which in the opinion of the commission clearly reflects Utah taxable income.
(3) If a corporation is required under Public Law 99-514, or successor statute, to change its method of accounting from the cash receipts and disbursements method to an accrual method or other permissible method, the transition period provision of Public Law 99-514, or successor statute, for taking into account the adjustments required by reasons of such change shall be followed.
(4) The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under the methods of accounting permitted under this section, any such amounts are to be properly accounted for as of a different period.
(5) The subtractions provided for in this chapter shall be taken for the taxable year in which "paid or accrued" or "paid or incurred," dependent upon the method of accounting upon the basis

of which Utah taxable income is computed, unless in order to clearly reflect the income the subtractions ought to be taken as of a different period.

(6) For purposes of Subsections (4) and (5), transition periods for reporting income or deductions permitted or required by Public Law 99-514, or successor statute, shall be followed.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-502 Change of taxable year or accounting period.

(1) If a corporation changes its taxable year for federal income tax purposes, the new taxable year shall become the corporation's taxable year for Utah corporate franchise or income tax purposes.

(2) If a corporation which does not file a federal tax return changes its accounting period, the new accounting period shall become the corporation's taxable year for Utah corporate franchise or income tax purposes if the change is approved by the commission.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-503 Return where period changed.

(1) If a corporation changes its taxable year in accordance with Section 59-7-502, a short period return shall be made for the period of less than 12 months between the close of the last taxable year for which a return was made and the close of the new taxable year.

(2) Where a short period return is made under Subsection (1) on account of a change in the accounting period, and in any other case where a short period return is required or permitted by rules prescribed by the commission to be made for a fractional part of a year, the tax shall be calculated at the rate provided in Section 59-7-104 for the period covered by the return assignable to business done in Utah.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-504 Estimated tax payments -- Penalty -- Waiver.

(1) Except as provided in Subsection (2), a corporation subject to taxation under this chapter that has a tax liability of $3,000 or more in either the current tax year or the previous tax year shall make a payment of an estimated tax on or before the day on which the corporation is required to make a payment of an estimated tax for the same time period to the federal government.

(2) The provisions of Section 6655, Internal Revenue Code, shall govern the payment described in Subsection (1), except that:

(a) for the first year a corporation is required to file a return in Utah, that corporation is not subject to Subsection (1) if the corporation makes a payment on or before the due date of the return, without extensions, equal to or greater than the minimum tax required under Section 59-7-104 or 59-7-201;

(b) the applicable percentage of the required annual payment, as defined in Section 6655, Internal Revenue Code, for annualized income installments, adjusted seasonal installments, and those estimated tax payments based on the current year tax liability shall be:

Installment	Percentage
1st	22.5
2nd	45.0

3rd	67.5
4th	90.0

(c) a large corporation shall be treated as any other corporation for purposes of this section;
(d) if a taxpayer elects a different annualization period than the one used for federal purposes, the taxpayer shall make an election with the commission at the same time as provided under Section 6655, Internal Revenue Code; and
(e) the due date shall be superseded by the due date for federal estimated payments if modified by other federal action.
(3) A penalty shall be added as provided in Section 59-1-401 for any quarterly estimated tax payment that is not made in accordance with this section.
(4) There shall be no interest added to any estimated tax payments subject to a penalty under this section.

Amended by Chapter 367, 2021 General Session

59-7-505 Returns required -- When due -- Extension of time -- Exemption from filing.
(1) Each corporation subject to taxation under this chapter shall make a return, except that a group of corporations filing a combined report under Part 4, Combined Reporting, shall file one combined report.
(a) The return shall be signed by a responsible officer of the corporation, the signature of whom need not be notarized but when signed shall be considered as made under oath.
(b)
(i) In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, those receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns.
(ii) Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.
(2)
(a) A corporation required to make a return under this chapter shall make a return on or before the later of:
(i) the 15th day of the fourth month following the close of the taxable year; or
(ii) the day on which the corporation is required to file a federal income tax return.
(b) Interest accrues from the day on which a return is due under this Subsection (2).
(3)
(a) The commission shall allow a taxpayer an extension of time for filing a return.
(b) Except as provided in Subsection (3)(c), the extension described in Subsection (3)(a) may be for up to six 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 (3)(a) for the time period that ends on the last day of the extension to file the taxpayer's federal income tax return.
(4) Each return shall be made to the commission.
(5) A corporation incorporated or qualified to do business in this state before January 1, 1973, is not liable for filing a return or paying tax measured by income for the taxable year in which the corporation legally terminates the corporation's existence.

(6) A corporation incorporated or qualified to do business or that had the corporation's authority to do business reinstated on or after January 1, 1973, shall file a return and pay the tax measured by income for each period during which the corporation had the right to do business in this state, and the return shall be filed and the tax paid within three months and 15 days after the close of this period.
(7) If a corporation terminates the corporation's existence under Section 16-10a-1401, the corporation is not required to file a return if the corporation provides a statement to the commission that no business has been conducted during that period.
(8)
(a) A corporation commencing to do business in Utah after qualification or incorporation with the Division of Corporations and Commercial Code is not required to file a return for the period commencing with the date of incorporation or qualification and ending on the last day of the same month, if that corporation was not doing business in and received no income from sources in the state during such period.
(b) In determining whether a corporation comes within the provisions of this chapter, affidavits on behalf of the corporation that it did no business in and received no income from sources in Utah during such period shall be filed with the commission.
(9) An entity required to file a return under this section shall report on the entity's return:
(a) whether the entity has filed a current annual report with the Division of Corporations; and
(b) the entity's commerce entity number.

Amended by Chapter 232, 2024 General Session

59-7-507 Payment of tax.
(1)
(a) If an estimated payment is not made as provided in Section 59-7-504, the amount of tax imposed by this chapter shall be paid no later than the due date of the return described in Subsection 59-7-505(2).
(b) If a taxpayer needs an extension of time to file a return, as provided in Section 59-7-505 or 59-7-803, a taxpayer shall pay, no later than the due date of the return described in Subsection 59-7-505(2), an amount equal to the lesser of:
(i) the greater of:
(A) 90% of the total tax reported on the return for the current taxable year; or
(B) 100% of the minimum tax described in Section 59-7-104; or
(ii) 100% of the total tax liability for the taxable year immediately preceding the current taxable year.
(c) If payment is not made as provided in Subsection (1)(b), the commission shall add an extension penalty as provided in Section 59-1-401, until the tax is paid during the period of extension.
(2)
(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, at the request of the taxpayer, the commission may extend the time for payment of the amount determined as the tax by the

taxpayer, or any part of that amount, for a period not to exceed six months from the date prescribed for the payment of the tax.

(ii) For purposes of Subsection (2)(b)(i), the taxpayer shall pay the amount for which the extension is granted on or before the day on which the period of the extension expires.

Amended by Chapter 367, 2021 General Session

59-7-508 Audit of returns.

As soon as practicable after the return is filed the commission shall examine it and shall determine the correct amount of the tax.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-509 Failure to file return -- Penalty.

In case of any failure to make and file a return required by this chapter within the time prescribed by law or prescribed by the commission in pursuance of law, 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. The amounts so added to any tax shall be collected at the same time and in the same manner and as a part of the tax, unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-510 Deficiency -- Interest.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the commission, and shall be collected as a part of the tax at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2
Amended by Chapter 1, 1993 Special Session 2

59-7-511 Penalty added to underpayments.

A penalty shall be added to underpayments of tax as provided in Section 59-1-401.

Amended by Chapter 93, 1994 General Session

59-7-512 Addition to tax in case of nonpayment.

Where the entire amount determined by the taxpayer as the tax imposed by this chapter is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax interest upon such unpaid amount at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2
Amended by Chapter 1, 1993 Special Session 2

59-7-513 Interest when time for payment extended.

If the time for payment of the amount determined as the tax by the taxpayer is extended under the authority of Subsection 59-7-507(2), there shall be collected as a part of such amount interest at the rate prescribed in Section 59-1-402 from the date when such payment should have been made, if no extension had been granted, until payment is received.

Amended by Chapter 1, 1993 Special Session 2
Amended by Chapter 1, 1993 Special Session 2

59-7-514 Extension of time to pay deficiency.

(1) Where it is shown to the satisfaction of the commission that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the taxpayer, the commission (except where the deficiency is due to negligence, to intentional disregard of rules, or to fraud with intent to evade tax) may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of six months.
(2) If an extension is granted, the commission may require the taxpayer to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties as the commission deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-515 Interest when deficiency extended.

(1) If the time for the payment of any part of a deficiency is extended, the commission shall collect as a part of the tax interest on the part of the deficiency (the time for payment of which is so extended) at the rate prescribed in Section 59-1-402 for the period of the extension, and shall collect no other interest on such part of the deficiency for such period.
(2) If the part of the deficiency (the time for payment of which is so extended) is not paid in accordance with the terms of the extension, the commission shall collect as a part of the tax interest on such unpaid amount at the rate prescribed in Section 59-1-402 for the period from the time fixed by the terms of the extension for its payment until it is paid, and shall collect no other interest on such unpaid amount for such period.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-519 Period of limitation for making assessments -- Change, correction, or amendment of federal income tax -- Duty of corporation to notify state -- Extensions.

(1)
  (a) Subject to the other provisions of this section, the amount of taxes imposed by this chapter shall be assessed within three years after a return is filed.
  (b) After the expiration of the time period described in Subsection (1)(a), a proceeding in court may not be made without assessment for the collection of the taxes described in Subsection (1)(a).
(2) In the case of a deficiency attributable to the application of a net loss carryback, the deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net loss that results in the carryback may be assessed.
(3) If the amount of federal taxable income for any year of any corporation as returned to the United States treasury department is changed or corrected by the commissioner of internal revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change of federal taxable income, a taxpayer shall:

(a) report the change or corrected net income within 90 days after the final determination of the change or correction as required to the commission; and
(b) concede the accuracy of the determination or state where the determination is erroneous.
(4) Any corporation filing an amended return with the United States treasury department shall also file, within 90 days after the corporation files the amended return with the United States treasury department, an amended return with the commission that contains the information the commission requires.
(5) If a corporation fails to report a change or correction by the commissioner of internal revenue, other officer of the United States, or other competent authority or fails to file an amended return, any deficiency resulting from the change or correction may be assessed and collected within three years after the change, correction, or amended return is reported to or filed with the federal government.
(6) If any corporation agrees with the commissioner of internal revenue for an extension, or a renewal of an extension, of the period for proposing and assessing deficiencies in federal income tax for any year, the period for sending a notice of proposed Utah tax deficiencies for that year is the later of:
(a) three years after the return is filed; or
(b) six months after the date of the expiration of the agreed period for assessing deficiencies in federal income tax.
(7) The extensions described in Section 59-1-1418 apply to this section.

Amended by Chapter 212, 2009 General Session

59-7-522 Overpayments.
(1) As used in this section, "overpayment" means the same as that term is defined in Section 59-1-1409.
(2)
(a) Subject to Subsection (2)(b), a claim for credit or refund of an overpayment that is attributable to a Utah net loss carry forward shall be filed within three years from the due date of the return for the taxable year of the Utah net loss.
(b) The three-year period described in Subsection (2)(a) shall be extended by any extension of time provided in statute for filing the return described in Subsection (2)(a).
(3) The commission shall make a credit against or refund of any overpayment of a tax under this chapter for a taxable year if, in accordance with Section 59-7-519:
(a)
(i) a corporation agrees with the commissioner of internal revenue for an extension, or a renewal of an extension, of the period for proposing and assessing a deficiency in federal income tax for that taxable year; or
(ii) there is a change in or correction of federal taxable income for that taxable year; and
(b) the corporation files a claim for the credit or refund before the expiration of the time period within which the commission may assess a deficiency.
(4) The commission shall make a credit or refund within a 30-day period after the day on which a court's decision to require the commission to credit or refund the amount of an overpayment to a taxpayer is final.

Amended by Chapter 3, 2018 Special Session 2

59-7-528 Failure to make return or supply information -- Penalty.

Each officer or employee of any corporation, 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, shall be liable for a penalty as provided in Section 59-1-401, assessed and collected by the commission in the same manner as is provided in this chapter with regard to delinquent taxes.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-529 General violations and penalties.

(1) Each 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 civil penalty as provided in Section 59-1-401 imposed, assessed, and collected by the commission in the same manner as provided by this chapter for delinquent taxes.
(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 the provisions of this chapter. A violation of this section is punishable as provided in Section 59-1-401.
(3) Each 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) Each person who, with intent to evade any tax or any requirement of this chapter, fails to make, render, sign, or verify any return, or supply any information within the time required under the provisions of this chapter, is guilty of a criminal violation as provided in Section 59-1-401.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-530 Power to waive penalties or interest.

The commission may waive penalties or interest as provided in Section 59-1-401.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-531 Venue of offenses -- Evidence.

(1) The failure to do any act required by the provisions of this chapter shall be considered an act committed in part at the office of the commission.
(2) The certificate of the commission that a tax has not been paid, that a return has not been filed, or that information has not been supplied, as required by or under the provisions of this chapter, shall be prima facie evidence that such tax has not been paid, that such return has not been filed, or that such information has not been supplied.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-532 Revenue received by commission -- Deposit with state treasurer -- Distribution or crediting to Income Tax Fund -- Refund claim payments.

(1)
  (a) The commission shall deposit at least quarterly all revenue collected or received by the commission under this chapter with the state treasurer.
  (b) The commission shall, subject to the refund provisions of this section, distribute or 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 (1)(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 (1)(b) to issue a refund.
(2) The commission shall from time to time certify to the state auditor the amount of any refund authorized by it, the amount of interest computed on it under the provisions of Section 59-7-533, from whom the tax to be refunded was collected, or by whom it was paid, and such refund claims shall be paid in order out of the funds first accruing to the Income Tax Fund from the provisions of this section.

Amended by Chapter 456, 2022 General Session

59-7-533 Interest on overpayments.

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.

Amended by Chapter 1, 1993 Special Session 2
Amended by Chapter 1, 1993 Special Session 2

59-7-534 Failure to pay tax -- Suspension or forfeiture of corporate rights.

(1) If a tax computed and levied under this chapter is not paid before 5 p.m. on the last day of the 11th month after the date of delinquency, the corporate powers, rights, and privileges of the delinquent taxpayer, if it is a domestic corporation, shall be suspended, and if a foreign corporation, it shall forfeit its rights to do intrastate business in this state.
(2) The commission shall transmit the name of each such corporation to the Division of Corporations and Commercial Code, which shall immediately record the same in such manner that it may be available to the public. This suspension or forfeiture shall become effective from the time such record is made, and the certificate of the Division of Corporations and Commercial Code shall be prima facie evidence of such suspension or forfeiture.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-535 Doing business after suspension or forfeiture of certain corporate powers, rights, and privileges -- Penalty.

(1) A person is guilty of a class B misdemeanor if:
(a) the person's corporate powers, rights, and privileges have been suspended in accordance with Section 59-7-534; and
(b) the person:
(i) attempts or purports to exercise any of the rights, privileges, or powers of a suspended domestic corporation; or
(ii) transacts or attempts to transact any intrastate business in this state in behalf of a forfeited foreign corporation.
(2) Jurisdiction of the offense shall be in any county in which any part of an action described in Subsection (1)(b) occurred.
(3) Any contract made in violation of this section is unenforceable by a corporation or person described in Subsection (1).

Amended by Chapter 120, 2013 General Session

59-7-536 Relief in case of suspension or forfeiture.

(1)

(a) Any corporation which has suffered the suspension or forfeiture referred to in Section 59-7-534 may be relieved from that suspension or forfeiture by applying for that relief in writing, paying the tax and the interest and penalties for nonpayment of which the suspension or forfeiture occurred, and paying a reinstatement fee of $100. If the corporation has done business in this state during the period of such suspension, a tax shall be computed according to this chapter for each year in which the business was done, and the tax shall be added to the delinquency and penalties provided in this section. If the due date of any return required in this section has not passed, a return need not be filed until that due date.

(b) Application for revivor may be made by any stockholder or creditor of the corporation or by a majority of the surviving trustees or directors, and the same shall be filed with the Division of Corporations and Commercial Code. Upon payment to the commission of the taxes, penalties, and reinstatement fee provided for in this section, the Division of Corporations and Commercial Code shall issue a certificate of revivor, and the applicant shall be revived. The revivor shall be without prejudice to any action, defense, or right which has accrued by reason of the original suspension or forfeiture. The certificate of revivor is prima facie evidence of the revivor.

(2) If any corporation has adopted, subsequent to such suspension or forfeiture, any name so closely resembling the name of the reviving corporation as will tend to deceive, then the reviving corporation is entitled to a certificate of revivor pursuant to the terms of this section only upon adopting a new name, and in such case nothing in this section may be construed as permitting the reviving corporation to carry on any business under its former name. The reviving corporation may use its former name or may take the new name only upon filing an application for it with the Division of Corporations and Commercial Code, and upon the issuing of a certificate to such corporation by the Division of Corporations and Commercial Code, setting forth the right of such corporation to take such new name or use its former name as the case may be. The Division of Corporations and Commercial Code may not issue any certificate permitting any corporation to take or use the name of any corporation already organized in this state and which has not suffered a forfeiture, or take or use a name so closely resembling the name of any corporation already organized in this state as will tend to deceive.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-537 Confidentiality of information.

The confidentiality of returns and other information filed with the commission shall be governed by Section 59-1-403.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-538 Carry forward of expired or repealed tax credit.

(1) Except as provided in Subsection (2), when a nonrefundable corporate income tax credit under Part 6, Credits, expires or is repealed, the commission shall allow a taxpayer 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 taxpayer first claimed the tax credit.

(2) Subsection (1) does not apply to a tax credit described in Subsection 59-7-607(2)(c)(iv).

Amended by Chapter 413, 2024 General Session

Part 6
Credits

59-7-601 Credit of interest income from state and federal securities.

(1) There shall be allowed as a credit against the tax an amount equal to 1% of the gross interest income included in state taxable income from:

(a) bonds, notes, or other evidences of indebtedness issued by the state and its agencies and instrumentalities, and bonds, notes, or other evidences of indebtedness of any political subdivision as described in Section 11-14-303; and

(b) stocks, notes, or obligations issued by, or guaranteed by the United States Government, or any of its agencies and instrumentalities as defined under federal law.

(2) Amounts otherwise qualifying for the credit, but not allowable because the credit exceeds the tax, may be carried back three years or may be carried forward five years as a credit against the tax. Such carryover credits shall be applied against the tax before the application of the credits earned in the current year and on a first-earned first-used basis.

Amended by Chapter 105, 2005 General Session

59-7-606 Tax credit -- Items using cleaner burning fuels.

(1) As used in this section, "board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(2) For taxable years beginning on or after January 1, 1992, but prior to January 1, 2003, there is allowed a tax credit against tax otherwise due under this chapter in an amount equal to 10%, up to a maximum of $50, of the total of both the purchase cost and installation services cost of each pellet burning stove, high mass wood stove, and solid fuel burning device purchased and installed that is certified by the federal Environmental Protection Agency in accordance with test procedures prescribed in 40 C.F.R. Sec. 60.534, including purchase cost and installation service cost of natural gas or propane free standing fireplaces or inserts, but not including fireplace logs.

(3) A taxpayer shall provide proof of the purchase of an item for which a tax credit is allowed under this section by:

(a) providing proof to the board in the form the board requires by rule;

(b) receiving a written statement from the board acknowledging receipt of the proof; and

(c) retaining the written statement described in Subsection (3)(b).

(4) The tax credit under this section is allowed only:

(a) against any Utah tax owed in the taxable year by the taxpayer; and

(b) for the taxable year in which the item is purchased for which the tax credit is claimed.

Amended by Chapter 198, 2003 General Session

59-7-607 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 tax credit" means the federal tax 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 person that:

(A) owns a direct interest or an 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, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers.

(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 59-10-1010 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 59-10-1010 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 59-10-1010 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 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 59-10-1010 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 59-10-1010 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 tax 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 development is required to recapture a portion of any federal low-income housing tax credit, then each 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 tax 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 credit 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, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, 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

59-7-609 Historic preservation credit.
(1)
(a) For tax years beginning January 1, 1993, and thereafter, there is allowed to a taxpayer subject to Section 59-7-104, as a credit against the 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 credit allowed by this section shall apply to the full amount of expenditures.
(b) All rehabilitation work to which the 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 taxpayer in order to preserve the historical qualities of the building.
(c) Any amount of 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) the taxpayer'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

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

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

(a) a tax credit equal to the product of the percentage listed in Subsection 59-7-104(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 taxpayer 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 taxpayer 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 taxpayer is operating a business 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 taxpayer purchased;

(B) the date that the taxpayer 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 taxpayer is claiming a tax credit;

(E) a statement that the machinery and equipment are integral to the composting or recycling process; and

(F) the amount of the taxpayer's tax credit; and

(iii) for a claim of the tax credit described in Subsection (1)(b):

(A) the type of net expenditure that the taxpayer made to a third party;

(B) the date that the taxpayer made the payment to a third party;

(C) the amount that the taxpayer paid to each third party;

(D) the total amount that the taxpayer 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 taxpayer's tax credit.

(b)

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

(ii) The taxpayer shall retain a copy of the written certification for the same period of time that a person is required to keep books and records under Section 59-1-1406.
(c) The Department of Environmental Quality shall submit to the commission an electronic list that includes:
(i) the name and identifying information of each taxpayer to which the Department of Environmental Quality issues a written certification; and
(ii) for each taxpayer, the amount of each tax credit listed on the written certification.
(3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is calculated:
(a) for the taxable year in which the taxpayer made the purchases or payments;
(b) before any other tax credits the taxpayer may claim for the taxable year; and
(c) before the taxpayer claims a tax credit authorized by this section.
(4) The commission shall make rules governing what information a taxpayer shall file with the commission to verify the entitlement to and amount of a tax credit.
(5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to the next three taxable years, the amount of a tax credit described in Subsection (1)(a) that the taxpayer does not use for the taxable year.
(6) A taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.
(7) A taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.
(8) A taxpayer may not claim or carry forward a tax credit under this section for a taxable year during which the taxpayer claims the targeted business income tax credit under Section 59-7-624.

Amended by Chapter 367, 2021 General Session

59-7-612 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 taxpayer meeting the requirements of this section may claim the following nonrefundable tax credits:
(i) a research tax credit of 5% of the taxpayer's qualified research expenses for the current taxable year that exceed the base amount provided for under Subsection (4);
(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 (4); and
(iii) a tax credit equal to 7.5% of the taxpayer's qualified research expenses for the current taxable year.
(b) Subject to Subsection (5), a taxpayer may claim a tax credit under:
(i) Subsection (1)(a)(i) or (1)(a)(iii), for the taxable year for which the taxpayer incurs the qualified research expenses; or
(ii) Subsection (1)(a)(ii), for the taxable year for which the taxpayer 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) For purposes of claiming a tax credit under this section, a unitary group as defined in Section 59-7-101 is considered to be one taxpayer.
(3) 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).
(4) 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 taxpayer's gross receipts include only those gross receipts attributable to sources within this state as provided in Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions; and
(iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the base amount, a taxpayer:
(A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B) regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II); and
(B) may not revoke an election to be treated as a start-up company under Subsection (4)(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.
(5)
(a) If the amount of a tax credit claimed by a taxpayer under Subsection (1)(a)(i) or (ii) exceeds the taxpayer'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 taxpayer may not carry forward the tax credit allowed by Subsection (1)(a)(iii).
(6) 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.
(7) If a provision of Section 41, Internal Revenue Code, is modified or repealed, the commission shall provide an electronic report of the modification or repeal to the Revenue and Taxation Interim Committee within 60 days after the day on which the modification or repeal becomes effective.
(8)

(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 (7) a modification or repeal of a provision of Section 41, Internal Revenue Code.
(b) The review described in Subsection (8)(a) is in addition to the review required by Section 59-7-159.
(c) Notwithstanding Subsection (8)(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

59-7-614 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) "Clean energy source" means the same as that term is defined in Section 54-17-601.
(d) "Commercial energy system" means a system that is:
(i)
(A) an active solar system;
(B) a biomass system;
(C) a direct use geothermal system;
(D) a geothermal electricity system;
(E) a geothermal heat pump system;
(F) a hydroenergy system;
(G) a passive solar system; or

(H) a wind system;
(ii) located in the state; and
(iii) used:
(A) to supply energy to a commercial unit; or
(B) as a commercial enterprise.
(e) "Commercial enterprise" means an entity, the purpose of which is to produce:
(i) electrical, mechanical, or thermal energy for sale from a commercial energy system; or
(ii) hydrogen for sale from a hydrogen production system.
(f)
(i) "Commercial unit" means a building or structure that an entity uses to transact business.
(ii) Notwithstanding Subsection (1)(f)(i):
(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or
(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.
(g) "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.
(h) "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.
(i) "Geothermal energy" means energy generated by heat that is contained in the earth.
(j) "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.
(k) "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.
(l) "Hydrogen production system" means a system of apparatus and equipment, located in this state, that uses:
(i) electricity from a clean energy source to create hydrogen gas from water, regardless of whether the clean energy source is at a separate facility or the same facility as the system of apparatus and equipment; or
(ii) uses renewable natural gas to produce hydrogen gas.
(m) "Office" means the Office of Energy Development created in Section 79-6-401.
(n)
(i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and the structure's 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.
(o) "Photovoltaic system" means an active solar system that generates electricity from sunlight.
(p)
(i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) "Principal recovery portion" does not include:
(A) an interest charge; or
(B) a maintenance expense.
(q) "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.
(r)
(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.
(s) "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, sale, or storage.
(2) A taxpayer 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 taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:
(i) the taxpayer:
(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or
(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit; and
(ii) the taxpayer obtains a written certification from the office in accordance with Subsection (8).
(b)
(i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.
(ii) A tax credit under this Subsection (3) may include installation costs.
(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.
(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a residential energy system, other than a photovoltaic system, may not exceed $2,000 per residential unit.

(d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a photovoltaic system may not exceed:

(i) for a system installed on or after January 1, 2018, but on or before December 31, 2020, $1,600;

(ii) for a system installed on or after January 1, 2021, but on or before December 31, 2021, $1,200;

(iii) for a system installed on or after January 1, 2022, but on or before December 31, 2022, $800;

(iv) for a system installed on or after January 1, 2023, but on or before December 31, 2023, $400; and

(v) for a system installed on or after January 1, 2024, $0.

(e) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii)

(A) 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; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4)

(a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) 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 taxpayer 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 taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (4); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b)

(i) Subject to Subsections (4)(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 (4) may include installation costs.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed $50,000 per commercial unit.

(c)
(i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer 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 taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.
(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.
(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.
(5)
(a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) 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 taxpayer; or
(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;
(iii) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (5); and
(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (8).
(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 taxpayer 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 taxpayer 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 taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.
(6)
(a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:
(i) the taxpayer 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 taxpayer; or
(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;
(iii) the taxpayer does not claim a tax credit under Subsection (4) and has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (6); and
(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b)
(i) Subject to Subsection (6)(b)(ii), a tax credit under this Subsection (6) 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 taxpayer 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 commercial energy system is placed in commercial service.
(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.
(7)
(a) A taxpayer may claim a refundable tax credit as provided in this Subsection (7) if:
(i) the taxpayer owns a hydrogen production system;
(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;
(iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own use in commercial units, the hydrogen produced from the hydrogen production system;
(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (4), (5), or (6) or Section 59-7-626 for electricity or hydrogen used to meet the requirements of this Subsection (7); and
(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).
(b)
(i) Subject to Subsections (7)(b)(ii) and (iii), a tax credit under this Subsection (7) is equal to the product of:
(A) $0.12; and
(B) the number of kilograms of hydrogen produced during the taxable year.
(ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than 5,600 metric tons of hydrogen per taxable year.
(iii) A taxpayer is eligible to claim a tax credit under this Subsection (7) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.
(8)
(a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.
(b) The office shall issue a taxpayer a written certification if the office determines that:
(i) the taxpayer meets the requirements of this section to receive a tax credit; and
(ii) the residential energy system, the commercial energy system, or the hydrogen production system with respect to which the taxpayer 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, the commercial energy system, or the hydrogen production system uses the state's clean 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, a commercial energy system, or a hydrogen production system meets the requirements of Subsection (8)(b)(ii); and
(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.
(d) A taxpayer 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 taxpayer to which the office issues a written certification; and
(ii) for each taxpayer:
(A) the amount of the tax credit listed on the written certification; and
(B) the date the clean energy system was installed.
(9) 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.
(10) 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.
(11) A taxpayer may not claim or carry forward a tax credit described in this section in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 59-7-614.7.

Amended by Chapter 53, 2024 General Session

59-7-614.1 Refundable 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 taxpayer 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 taxpayer 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 taxpayer:
(a) shall retain the following to establish the amount of tax the resident or nonresident individual 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 taxpayer that claims a tax credit under this section if the amount of the tax credit exceeds the taxpayer'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 amount of tax credit 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 taxpayer 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

59-7-614.2 Refundable economic development tax credit.
(1) As used in this section:
(a) "Business entity" means a taxpayer 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 59-7-159, 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 that the office grants to each business entity for each calendar year;
(ii) the criteria that the office uses in granting a tax credit;
(iii) the new state revenue generated by the business entity for the 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 business entities 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 200, 2022 General Session

59-7-614.4 Tax credit for pass-through entity taxpayer.

(1) As used in this section:

(a) "Pass-through entity" is as defined in Section 59-10-1402.

(b) "Pass-through entity taxpayer" is as 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.

(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.

(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 59-10-1103.

Enacted by Chapter 312, 2009 General Session

59-7-614.5 Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a taxpayer 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 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 motion picture company as required by Subsection (4)(a).

(5)

(a) In accordance with Section 59-7-159, 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 motion picture company 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 that the office uses in granting the 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-1a-306; 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 motion picture companies 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

59-7-614.7 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 59-7-159, 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 taxpayer 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 59-7-614.

Amended by Chapter 482, 2023 General Session

59-7-614.10 Nonrefundable enterprise zone tax credit.
(1) As used in this section:
(a) "Business entity" means a corporation 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 59-7-624.
(6)
(a) In accordance with Section 59-7-159, 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 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-301; and
(F) any 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

59-7-618.1 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 taxpayer 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 taxpayer.
(i) "Tax credit certificate" means a certificate issued by the director certifying that a taxpayer 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 or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act:
(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 taxpayer may not submit an application for, and the director may not issue to the taxpayer, 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 taxpayer 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 taxpayer may submit an application for, and the director may issue to the taxpayer, one or more tax credit certificates for up to eight additional qualified purchases, even if the director has already issued to that taxpayer 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 taxpayer 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 59-10-1033.1 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 taxpayer may reserve a potential tax credit under this section for a limited time to allow the taxpayer to make a qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the taxpayer is able to submit an application for a tax credit certificate.

(6)

(a)

(i) A taxpayer 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 taxpayer a written statement from the director acknowledging receipt of the proof.

(b) If the director determines that a taxpayer qualifies for a tax credit under this section, the director shall:

(i) determine the amount of tax credit the taxpayer is allowed under this section; and

(ii) provide the taxpayer with a written tax credit certificate:

(A) stating that the taxpayer has qualified for a tax credit; and

(B) showing the amount of tax credit for which the taxpayer 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 or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, 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 or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, 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

59-7-619 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 corporation 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 59-7-159, 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.

(6) Notwithstanding Section 59-7-903, the commission may not remove the tax credit described in this section from the tax return for a taxable year beginning before January 1, 2027.

Amended by Chapter 473, 2023 General Session

59-7-621 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

59-7-623 Nonrefundable guaranty association assessment tax credit.

(1) As used in this section:
  (a) "Guaranty association assessment" means the amount of any assessments paid by a qualified insurer under the guaranty association established under Title 31A, Chapter 28, Part 1, Utah Life and Health Insurance Guaranty Association Act, in the manner provided by Section 31A-28-113.
  (b) "Qualified insurer" means an insurer, as defined in Section 31A-1-301, that is not subject to the premium tax on health care insurance under Section 59-9-101.
(2) For a taxable year beginning on or after January 1, 2019, a qualified insurer may claim a nonrefundable tax credit equal to 20% of the assessment for each of the five years following the year the qualified insurer pays a guaranty association assessment, in accordance with Section 31A-28-113.
(3)
  (a) A qualified insurer may carry forward the portion of the tax credit that exceeds the qualified insurer's tax liability for the taxable year in accordance with Section 31A-28-113.
  (b) A qualified insurer may not carry back the portion of the tax credit that exceeds the qualified insurer's tax liability for the taxable year.

Enacted by Chapter 391, 2018 General Session

59-7-624 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

59-7-625 Nonrefundable tax credit for a donation to the Carson Smith Opportunity Scholarship Program.
(1) A taxpayer 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 taxpayer's liability under this chapter for a taxable year, the taxpayer:
(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 taxpayer's tax liability to the previous taxable year.

Amended by Chapter 466, 2024 General Session

59-7-626 Refundable tax credit for nonrenewable hydrogen production system.
(1) As used in this section:
(a) "Commercial enterprise" means an entity, the purpose of which is to produce hydrogen for sale from a hydrogen production system.
(b) "Commercial unit" means a building or structure that an entity uses to transact business.
(c) "Hydrogen production system" means a system of apparatus and equipment, located in this state, that produces hydrogen from nonrenewable sources.
(d) "Office" means the Office of Energy Development created in Section 79-6-401.
(2)
(a) A taxpayer may claim a refundable credit under this section if:
(i) the taxpayer owns a hydrogen production system;
(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;
(iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own use in commercial units, the hydrogen produced from the hydrogen production system;
(iv) the taxpayer has not claimed and will not claim a tax credit under Section 59-7-614 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 taxpayer may not receive a tax credit under this section for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A taxpayer 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 taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the hydrogen production system with respect to which the taxpayer 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 taxpayer 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 taxpayer to which the office issues a written certification; and

(ii) for each taxpayer:

(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.

Enacted by Chapter 374, 2021 General Session

Part 7
S Corporations

59-7-701 Taxation of S corporations.

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

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

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

(4) An S corporation having income derived from or connected with Utah sources shall make a return in accordance with Sections 59-10-507 and 59-10-514.
(5) An S corporation shall make payments of estimated tax as required by Section 59-7-504.
(6) An S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.
(7) A pass-through entity taxpayer as defined in Section 59-10-1402 of an S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.
(8) Provisions under this chapter governing the following apply to an S corporation:
(a) an assessment;
(b) a penalty;
(c) a refund; or
(d) a record required for an S corporation.

Amended by Chapter 87, 2016 General Session
Amended by Chapter 135, 2016 General Session
Amended by Chapter 222, 2016 General Session

59-7-705 Minimum tax not applicable to an S corporation.

The minimum tax provided in Section 59-7-104 does not apply to an S corporation subject to taxation under Section 59-7-701.

Amended by Chapter 312, 2009 General Session

59-7-706 Distribution and credit of revenues.

Revenues collected or received by the commission under this part shall be deposited daily with the state treasurer and distributed and credited as provided in Section 59-10-544.

Amended by Chapter 312, 2009 General Session

59-7-707 Commission rulemaking authority.

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

Amended by Chapter 312, 2009 General Session

Part 8
Unrelated Business Income

59-7-801 Definitions.

For purposes of this part:
(1) "Unrelated business income" means unrelated business income as determined under Section 512, Internal Revenue Code.
(2) "Utah unrelated business income" means the unrelated business income apportioned to Utah in accordance with Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions.

Amended by Chapter 225, 2005 General Session

59-7-802 Taxation of unrelated business income.

(1) An organization which is exempt from taxation as provided in Subsection 59-7-102(1) or Section 59-10-126 shall be subject to the tax imposed by this part on its Utah unrelated business income.

(2) Utah unrelated business income shall be taxed at the rate provided in Section 59-7-104 except that the minimum tax does not apply to organizations subject to the tax under this part.

Amended by Chapter 311, 1995 General Session

59-7-803 Filing returns -- Extension.

(1) An organization subject to the tax imposed by this part shall file a state return on or before the date which the exempt organization is required to file its federal exempt organization business income tax return, including extensions.

(2) If a valid federal extension is filed, the extension shall be considered valid for state purposes and payment of tax shall be made as provided in Section 59-7-507.

Amended by Chapter 311, 1995 General Session

59-7-804 Transition rule -- Net loss carryforwards.

Net operating losses shall be recognized to the extent recognized for federal purposes even if incurred prior to the effective date of this part.

Enacted by Chapter 178, 1994 General Session

59-7-805 Apportionment provisions.

For purposes of this part, only the property, payroll, and sales included in the computation of unrelated business income or directly related to the unrelated business income of an exempt organization shall be included when apportioning income under Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions.

Enacted by Chapter 178, 1994 General Session

Part 9
Tax Credit Administration Act

59-7-901 Title.

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

Enacted by Chapter 315, 2014 General Session

59-7-902 Definitions.

As used in this part:

(1) "Tax credit" means a nonrefundable tax credit listed on a tax return.

(2) "Tax return" means:

(a) a corporate return as defined in Section 59-7-101 filed in accordance with this chapter; or

(b) a tax return filed in accordance with Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act.

Enacted by Chapter 315, 2014 General Session

59-7-903 Removal of tax credit from tax return -- Prohibition on claiming a tax credit -- Commission publishing requirements.

(1) Subject to Subsection (2) and except as provided in Subsection (3), the commission shall remove a tax credit from a tax return and a person filing a tax return may not claim the tax credit if:

(a) the total amount of tax credit claimed or carried forward by all persons who file a tax return is less than $10,000 per taxable year for three consecutive taxable years; and

(b) less than 10 persons per year for the three consecutive taxable years described in Subsection (1)(a) file a tax return claiming or carrying forward the tax credit.

(2) If the commission determines the requirements of Subsection (1) are met, the commission shall remove a tax credit from a tax return and a person filing a tax return may not claim the tax credit beginning two taxable years after the January 1 immediately following the date the commission determines the requirements of Subsection (1) are met.

(3) This section does not apply to a tax credit under Section 59-7-609.

(4) The commission shall, on or before the November interim meeting of the year after the taxable year in which the commission determines the requirements of Subsection (1) 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 a return on which the tax credit appears; and

(b) a person filing a tax return may not claim the tax credit.

(5)

(a) Within a 30-day period after making the report required by Subsection (4), the commission shall publish a list in accordance with Subsection (5)(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 (5)(a) takes effect; and

(iv) remain available for viewing and searching until the commission publishes a new list in accordance with this Subsection (5).

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