

**TAX CREDITS - REMOVAL OF TAX CREDIT FROM
TAX FORM AND PROHIBITION ON CLAIMING
OR CARRYING FORWARD TAX CREDIT**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Curtis S. Bramble

This act amends the Individual Income Tax Act and Corporate Franchise and Income Taxes to require the State Tax Commission under certain circumstances to remove a tax credit from a tax return, to prohibit a person filing a tax return from claiming or carrying forward a tax credit under certain circumstances, and to require the State Tax Commission to make reports under certain circumstances to the Revenue and Taxation Interim Committee and certain state agencies. This act has retrospective operation for taxable years beginning on or after January 1, 2002.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

59-7-615, Utah Code Annotated 1953

59-10-135, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-7-615** is enacted to read:

59-7-615. Removal of tax credit from tax form and prohibition on claiming or carrying forward a tax credit -- Conditions for removal and prohibition on claiming or carrying forward a tax credit -- Commission reporting requirements.

(1) As used in this section:

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

(b) "Tax return" means:

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

or

(ii) 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.

(2) Beginning two taxable years after the requirements of Subsection (3) are met:

(a) the commission shall remove a tax credit from each tax return on which the tax credit appears; and

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

(3) The commission shall remove a tax credit from a tax return and a person filing a tax return may not claim or carry forward a tax credit as provided in Subsection (2) if:

(a) the total amount of the tax credit claimed or carried forward by all persons filing tax returns is less than \$10,000 per year for three consecutive taxable years beginning on or after January 1, 2002; and

(b) less than ten persons per year for the three consecutive taxable years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax credit.

(4) The commission shall, on or before the November interim meeting of the year after the taxable year in which the requirements of Subsection (3) are met:

(a) report to the Revenue and Taxation Interim Committee that in accordance with this section:

(i) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and

(ii) a person filing a tax return may not claim or carry forward the tax credit; and

(b) notify each state agency required by statute to assist in the administration of the tax credit that in accordance with this section:

(i) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and

(ii) a person filing a tax return may not claim or carry forward the tax credit.

Section 2. Section **59-10-135** is enacted to read:

59-10-135. Removal of tax credit from tax form and prohibition on claiming or carrying forward a tax credit -- Conditions for removal and prohibition on claiming or carrying forward a tax credit -- Commission reporting requirements.

(1) As used in this section:

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

(b) "Tax return" means an individual income tax return filed in accordance with this chapter.

(2) Beginning two taxable years after the requirements of Subsection (3) are met:

(a) the commission shall remove a tax credit from each tax return on which the tax credit appears; and

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

(3) The commission shall remove a tax credit from a tax return and a person filing a tax return may not claim or carry forward a tax credit as provided in Subsection (2) if:

(a) the total amount of the tax credit claimed or carried forward by all persons filing tax returns is less than \$10,000 per year for three consecutive taxable years beginning on or after January 1, 2002; and

(b) less than ten persons per year for the three consecutive taxable years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax credit.

(4) The commission shall, on or before the November interim meeting of the year after the taxable year in which the requirements of Subsection (3) are met:

(a) report to the Revenue and Taxation Interim Committee that in accordance with this section:

(i) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and

(ii) a person filing a tax return may not claim or carry forward the tax credit; and

(b) notify each state agency required by statute to assist in the administration of the tax credit that in accordance with this section:

(i) the commission is required to remove a tax credit from each tax return on which the tax credit appears; and

(ii) a person filing a tax return may not claim or carry forward the tax credit.

Section 3. Retrospective operation.

This act has retrospective operation for taxable years beginning on or after January 1, 2002.