

**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 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



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

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

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

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

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

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

39 (b) less than ten persons per year for three consecutive taxable years beginning on or after
40 January 1, 2002, file a tax return claiming or carrying forward the tax credit.

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

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

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

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

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

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

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

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

54 **59-10-135. Removal of tax credit from tax form and prohibition on claiming or**
55 **carrying forward a tax credit -- Conditions for removal and prohibition on claiming or**
56 **carrying forward a tax credit -- Commission reporting requirements.**

57 (1) As used in this section:

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

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

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

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

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

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

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

70 (b) less than ten persons per year for three consecutive taxable years beginning on or after
71 January 1, 2002, file a tax return claiming or carrying forward the tax credit.

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

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

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

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

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

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

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

84 **Section 3. Retrospective operation.**

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

Legislative Review Note
as of 11-20-01 2:13 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Committee Note

The Revenue and Taxation Interim Committee recommended this bill.