

**PROVIDING INFORMATION RELATING TO  
TAX CREDITS AND TAX FILING DUE  
DATES**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: David H. Steele**

**This act modifies Targeted Business Income Tax Credits Within an Enterprise Zone, Corporate Franchise and Income Taxes, and the Individual Income Tax Act to modify the requirements for providing information to the State Tax Commission when a taxpayer claims a tax credit. The act modifies the information that certain entities are required to provide to taxpayers claiming certain tax credits and the requirements for providing this information. The act modifies the due dates for filing certain returns with the State Tax Commission and makes technical changes. The act has retrospective operation for taxable years beginning on or after January 1, 2003.**

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

AMENDS:

**9-2-1803**, as enacted by Chapter 155, Laws of Utah 2001

**59-7-605**, as last amended by Chapter 231, Laws of Utah 2002

**59-7-606**, as last amended by Chapters 134 and 366, Laws of Utah 1997

**59-7-607**, as last amended by Chapter 159, Laws of Utah 2002

**59-7-608**, as last amended by Chapter 375, Laws of Utah 1997

**59-7-610**, as last amended by Chapter 155, Laws of Utah 2001

**59-10-108.7**, as last amended by Chapter 155, Laws of Utah 2001

**59-10-109**, as last amended by Chapter 375, Laws of Utah 1997

**59-10-127**, as last amended by Chapter 231, Laws of Utah 2002

**59-10-128**, as last amended by Chapters 134 and 366, Laws of Utah 1997

**59-10-129**, as last amended by Chapter 159, Laws of Utah 2002

**59-10-507**, as renumbered and amended by Chapter 2, Laws of Utah 1987

**59-10-514**, as renumbered and amended by Chapter 2, Laws of Utah 1987

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

Section 1. Section **9-2-1803** is amended to read:

**9-2-1803. Targeted business income tax credit structure -- Duties of the local zone administrator -- Duties of the State Tax Commission.**

(1) For taxable years beginning on or after January 1, 2002, a business applicant that is certified under Subsection 9-2-1802(3) and issued a targeted business tax credit eligibility form by the department under Subsection (8) may claim a refundable income tax credit:

(a) against the business applicant's tax liability under:

- (i) Title 59, Chapter 10, Individual Income Tax Act; or
  - (ii) Title 59, Chapter 7, Corporate Franchise and Income Taxes; and
- (b) subject to requirements and limitations provided by this part.

(2) The total amount of the targeted business income tax credits allowed under this part for all business applicants may not exceed \$300,000 in any fiscal year.

(3) (a) A targeted business income tax credit allowed under this part for each community investment project provided by a business applicant may not:

(i) be claimed by a business applicant for more than seven consecutive taxable years from the date the business applicant first qualifies for a targeted business income tax credit on the basis of a community investment project;

(ii) be carried forward or carried back;

(iii) exceed \$100,000 in total amount for the community investment project period during which the business applicant is eligible to claim a targeted business income tax credit; or

(iv) exceed in any year that the targeted business income tax credit is claimed the lesser of:

(A) 50% of the maximum amount allowed by the local zone administrator; or

(B) the allocated cap amount determined by the department under Subsection 9-2-1802(5).

(b) A business applicant may apply to the local zone administrator to claim a targeted business income tax credit allowed under this part for each community investment project

provided by the business applicant as the basis for its eligibility for a targeted business income tax credit.

(4) Subject to other provisions of this section, the local zone administrator shall establish for each business applicant that qualifies for a targeted business income tax credit:

(a) criteria for maintaining eligibility for the targeted business income tax credit that are reasonably related to the community investment project that is the basis for the business applicant's targeted business income tax credit;

(b) the maximum amount of the targeted business income tax credit the business applicant is allowed for the community investment project period;

(c) the time period over which the total amount of the targeted business income tax credit may be claimed;

(d) the maximum amount of the targeted business income tax credit that the business applicant will be allowed to claim each year; and

(e) requirements for a business applicant to report to the local zone administrator specifying:

(i) the frequency of the business applicant's reports to the local zone administrator, which shall be made at least quarterly; and

(ii) the information needed by the local zone administrator to monitor the business applicant's compliance with this Subsection (4) or Section 9-2-1802 that shall be included in the report.

(5) In accordance with Subsection (4)(e), a business applicant allowed a targeted business income tax credit under this part shall report to the local zone administrator.

(6) The amount of a targeted business income tax credit that a business applicant is allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the department or the local zone administrator determines that the business applicant has failed to comply with a requirement of Subsection (3) or Section 9-2-1802.

(7) The department or local zone administrator may audit a business applicant to ensure:

(a) eligibility for a targeted business income tax credit; or

(b) compliance with Subsection (3) or Section 9-2-1802.

(8) The department shall issue a targeted business income tax credit eligibility form in a form jointly developed by the State Tax Commission and the department no later than 30 days after the last day of the business applicant's taxable year showing:

(a) the maximum amount of the targeted business income tax credit that the business applicant is eligible for that taxable year;

(b) any reductions in the maximum amount of the targeted business income tax credit because of failure to comply with a requirement of Subsection (3) or Section 9-2-1802;

(c) the allocated cap amount that the business applicant may claim for that taxable year; and

(d) the actual amount of the targeted business income tax credit that the business applicant may claim for that taxable year.

(9) (a) A business applicant shall ~~[attach a copy of]~~ retain the targeted business income tax credit eligibility form provided by the department under this Subsection (9) ~~[to any return upon which a business applicant claims a targeted business income tax credit under this section].~~

(b) The State Tax Commission may audit a business applicant to ensure:

(i) eligibility for a targeted business income tax credit; or

(ii) compliance with Subsection (3) or Section 9-2-1802.

Section 2. Section **59-7-605** is amended to read:

**59-7-605. Definitions -- Tax credit -- Cleaner burning fuels.**

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 ~~[CFR]~~ C.F.R. Part 51,

Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

(B) the motor vehicle's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(b), is less than the emissions were before the installation of conversion equipment; and

(C) a reduction in emissions under Subsection (1)(b)(i)(B) is demonstrated by:

(I) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the board;

(II) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 [CFR] C.F.R. Part 86, Control of [Air Pollution] Emissions from New and In-use [Motor Vehicle] Highway Vehicles and Engines[-Certification and Test Procedures], using all fuel the motor vehicle is capable of using; or

(III) any other test or standard recognized by board rule; or

(ii) special mobile equipment on which conversion equipment has been installed meets the following criteria:

(A) the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(c), is less than the emissions were before the installation of conversion equipment; and

(B) a reduction in emissions under Subsection (1)(b)(ii)(A) is demonstrated by:

(I) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the board; or

(II) any other test or standard recognized by board rule.

(c) "Clean fuel grant" means a grant awarded under Title 9, Chapter 1, Part 7, Clean Fuels Conversion Program Act, for reimbursement of a portion of the incremental cost of an OEM vehicle or the cost of conversion equipment.

(d) "Conversion equipment" means equipment referred to in Subsection (2)(b) or (2)(c).

(e) "Incremental cost" has the same meaning as in Section 63-34-202.

(f) "OEM vehicle" has the same meaning as in Section 63-34-202.

(g) "Special mobile equipment":

(i) means any mobile equipment or vehicle that is not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For taxable years beginning on or after January 1, 2001, but beginning on or before December 31, 2005, a taxpayer may claim a 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, in an amount equal to:

(a) 50% of the incremental cost of an OEM vehicle registered in Utah minus the amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if the vehicle:

(i) is fueled by propane, natural gas, or electricity;

(ii) is fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(a)(i); or

(iii) meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;

(b) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in Utah minus the amount of any clean fuel grant received, up to a maximum tax credit of \$2,500 per motor vehicle, if the motor vehicle is to:

(i) be fueled by propane, natural gas, or electricity;

(ii) be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(b)(i); or

(iii) meet the federal clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

(c) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(c)(i);  
or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed.

(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) [~~attaching~~] retaining the written statement [~~obtained from the board to the tax return in which the credit is claimed~~] described in Subsection (3)(b).

(4) Except as provided by Subsection (5), [~~this~~] the tax credit under this section is allowed only:

- (a) against any Utah tax owed in the taxable year by the taxpayer;
  - (b) in the taxable year in which the item is purchased for which the tax credit is claimed;
- and
- (c) once per vehicle.

(5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

Section 3. Section **59-7-606** is amended to read:

**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, [~~Environmental Quality Code~~] Air Conservation Act.

(2) For [~~tax~~] 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 ~~[it]~~ the board requires by rule;
- (b) receiving a written statement from the board acknowledging receipt of the proof; and
- (c) ~~[attaching]~~ retaining the written statement ~~[obtained from the board to the tax return in which the credit is claimed]~~ described in Subsection (3)(b).

(4) ~~[This]~~ The tax credit under this section is allowed only:

- (a) against any Utah tax owed in the taxable year by the taxpayer; and
- (b) ~~[in]~~ for the taxable year in which the item is purchased for which the tax credit is claimed.

Section 4. Section **59-7-607** is amended to read:

**59-7-607. Utah low-income housing tax credit.**

(1) As used in this section:

- (a) "Allocation certificate" means:
  - (i) the certificate prescribed by the ~~[tax]~~ commission and issued by the Utah Housing Corporation to each taxpayer that specifies the percentage of the annual federal low-income housing tax credit that each taxpayer may take as an annual credit against state income tax; or
  - (ii) a copy of the allocation certificate that the housing sponsor provides to the taxpayer.
- (b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Federal low-income housing tax credit" means the tax credit under Section 42, Internal Revenue Code.

(d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership in the case of a partnership, a corporation in the case of an S corporation, or a limited liability



company in the case of a limited liability company.

(e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

(f) "Special low-income housing tax credit certificate" means a certificate:

(i) prescribed by the ~~[tax]~~ commission;

(ii) that a housing sponsor issues to a taxpayer for a taxable year; and

(iii) that specifies the amount of tax credit a taxpayer may claim under this section if the taxpayer meets the requirements of this section.

(g) "Taxpayer" means ~~[the]~~ a person ~~[entitled to the]~~ that is allowed a tax credit ~~[provided under]~~ in accordance with this section which is the corporation in the case of a C corporation, the partners in the case of a partnership, the shareholders in the case of an S corporation, and the members in the case of a limited liability company.

(2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a nonrefundable tax credit against taxes otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for taxpayers issued an allocation certificate.

(b) The tax credit shall be in an amount equal to the greater of the amount of:

(i) federal low-income housing tax credit to which the taxpayer is ~~[entitled]~~ allowed during that year multiplied by the percentage specified in an allocation certificate issued by the Utah Housing Corporation; or

(ii) tax credit specified in the special low-income housing tax credit certificate that the housing sponsor issues to the taxpayer as provided in Subsection (2)(c).

(c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

(i) the total amount of low-income housing tax credit under this section that:

(A) a housing sponsor is allowed for a building; and

(B) all of the taxpayers may claim with respect to the building if the taxpayers meet the requirements of this section; and

(ii) the percentage of tax credit a taxpayer may claim:

- (A) under this section if the taxpayer meets the requirements of this section; and
- (B) as provided in the agreement between the taxpayer and the housing sponsor.

(d) (i) For the calendar year beginning on January 1, 1995, through the calendar year beginning on January 1, 2005, the aggregate annual tax credit ~~[which]~~ that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-10-129 is an amount equal to the product of:

- (A) 12.5 cents; and
- (B) the population of Utah.

(ii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(3) (a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-10-129 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

(b) The Utah Housing 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 the residential housing development of which the building is a part;
- (ii) the level of area median income being served by the development;
- (iii) the need for the tax credit for the economic feasibility of the development; and
- (iv) the extended period for which the development commits to remain as affordable housing.

(4) (a) ~~[Any]~~ The following may apply to the Utah Housing Corporation for a tax credit under this section:

(i) any housing sponsor that has received an allocation of the federal low-income housing tax credit [and]; or

(ii) any applicant for an allocation of the federal low-income housing tax credit [may apply to the Utah Housing Corporation for a credit under this section].

(b) The Utah Housing Corporation may not require fees for applications of the tax credit

under this section in addition to those fees required for applications for the federal low-income housing tax credit.

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the Utah Housing Corporation.

(b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors by issuing an allocation certificate to qualifying housing sponsors.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed percentage of the federal low-income housing tax credit as determined by the Utah Housing Corporation.

(c) The percentage specified in an allocation certificate may not exceed 100% of the federal low-income housing tax credit.

(6) [~~If a partnership, an S corporation, or a limited liability company qualifies for the credit provided in this section as a~~] A housing sponsor[~~, it~~] shall provide a copy of the allocation certificate to [~~the taxpayers of the entity. (7) A taxpayer shall attach a copy of the allocation certificate to any return upon which a credit is claimed under this section.~~] each taxpayer that is issued a special low-income housing tax credit certificate.

(7) (a) A housing sponsor shall provide to the commission a list of:

(i) the taxpayers issued a special low-income housing tax credit certificate; and

(ii) for each taxpayer described in Subsection (7)(a)(i), the amount of tax credit listed on the special low-income housing tax credit certificate.

(b) A housing sponsor shall provide the list required by Subsection (7)(a):

(i) to the commission;

(ii) on a form provided by the commission; and

(iii) with the housing sponsor's tax return for each taxable year for which the housing sponsor issues a special low-income housing tax credit certificate described in this Subsection (7).

(8) (a) All elections made by the taxpayer pursuant to Section 42, Internal Revenue Code,

shall apply to this section.

(b) (i) If a taxpayer is required to recapture a portion of any federal low-income housing tax credit, the taxpayer shall also be required to recapture a portion of any state tax credits authorized by 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.

(9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) [~~credits~~] Tax credits that are unallocated by the Utah Housing Corporation in any year may be carried over for allocation in the subsequent year.

(10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the tax credit exceeds the tax, 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 (10)(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.

(11) Any tax credit taken in this section may be subject to an annual audit by the commission.

(12) The Utah Housing Corporation shall provide an annual report to the Revenue and Taxation Interim Committee which shall include at least:

(a) the purpose and effectiveness of the [~~exemption~~] tax credits; and

(b) the benefits of the [~~exemption~~] tax credits to the state.

(13) The [~~tax~~] commission may, in consultation with the Utah Housing Corporation, promulgate rules to implement this section [~~and Section 59-10-129~~].

Section 5. Section **59-7-608** is amended to read:

**59-7-608. Targeted jobs tax credit.**

(1) As used in this section, "individual with a disability" means an individual who:

(a) has been receiving services;  
(i) from a day-training program that is:  
(A) for persons with disabilities~~[, which is]~~; and  
(B) certified by the Department of Human Services as a qualifying program~~[;]~~; and  
(ii) for at least six consecutive months prior to working for the employer claiming the tax credit under this section; or

(b) is eligible for services from the Division of Services for People with Disabilities at the time the individual begins working for the employer claiming the tax credit under this section.

(2) For taxable years beginning on or after January 1, 1995, there is allowed a nonrefundable tax credit against tax otherwise due under this chapter for an employer ~~[who]~~ that:

(a) meets the unemployment and workers' compensation requirements of Title 34A, Utah Labor Code~~[;]~~; and

(b) hires an individual with a disability who:

~~[(a)]~~ (i) works in this state for at least 180 days in a taxable year for that employer; and

~~[(b)]~~ (ii) is paid at least minimum wages by that employer.

(3) The tax credit shall be in an amount equal to:

(a) 10% of the gross wages earned in the first 180 days of employment by the individual with a disability from the employer seeking the tax credit; and

(b) 20% of the gross wages earned in the remaining taxable year by the individual with a disability from the employer seeking the tax credit.

(4) The tax credit which may be taken by an employer under this section shall be:

(a) limited to \$3,000 per year per individual with a disability; and

(b) allowed only for the first two years the individual with a disability is employed by the employer.

(5) Any amount of tax credit remaining may be carried forward two taxable years following the taxable year of the employment eligible for the tax credit provided in this section.

(6) (a) The Division of Services for People with Disabilities shall certify that an

employer qualifies for the tax credit provided in this section on a form provided by the [tax] commission.

(b) The form described in Subsection (6)(a) shall include the name and Social Security number of the individual for whom the tax credit is claimed.

(c) The Division of Services for People with Disabilities shall provide the employer described in Subsection (6)(a) with a copy of the form described in this Subsection (6).

~~[(b) An]~~ (d) The employer described in Subsection (6)(a) shall ~~[attach]~~ retain the ~~[certification] form [obtained from the Division of Services for People with Disabilities to the tax return in which the credit is claimed]~~ described in this Subsection (6).

Section 6. Section **59-7-610** is amended to read:

**59-7-610. Recycling market development zones tax credit.**

(1) For [tax] taxable years beginning on or after January 1, 1996, ~~[the following state tax credits are applicable to businesses]~~ a business operating in a recycling market development zone as defined in Section 9-2-1602[:] may claim a tax credit as provided in this section.

(a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

(A) commercial composting; or

(B) manufacturing facilities or plant units that:

(I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(II) reduce or reuse postconsumer waste material.

(ii) The Department of Community and Economic Development shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process;

~~(A)~~ on a form provided by the [tax] commission; and

~~(B)~~ before [the] a taxpayer is [entitled to the] allowed a tax credit under this section.

(iii) The Department of Community and Economic Development shall provide a taxpayer seeking to claim a tax credit under this section with a copy of the form described in

Subsection (1)(a)(ii).

~~[(iii)]~~ (iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form ~~[enclose with its tax return the certification]~~ received under Subsection (1)(a)~~[(ii)]~~(iii).

(b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures up to \$10,000 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 Utah, with an annual maximum tax credit of \$2,000.

(2) The total nonrefundable tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried over for credit against the ~~[business's]~~ business' income taxes in the three succeeding taxable years until the total tax credit amount is used.

(b) Tax credits not claimed by a business on ~~[its]~~ the business' state income tax return within three years are forfeited.

(4) The ~~[tax]~~ commission shall make rules governing what information shall be filed with the ~~[tax]~~ commission to verify the entitlement to and amount of a tax credit.

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, 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 9-2-413.

(b) For a taxable year other than a taxable year during which the taxpayer may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim or carry forward a tax credit described in Subsection (1)(a):

(i) if the taxpayer may claim or carry forward the tax credit in accordance with Subsections (1) and (2); and

(ii) subject to Subsections (3) and (4).

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, 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 9-2-413.

(7) A taxpayer may not claim or carry forward a tax credit available under this section for a taxable year during which the taxpayer has claimed the targeted business income tax credit available under Section 9-2-1803.

Section 7. Section **59-10-108.7** is amended to read:

**59-10-108.7. Recycling market development zones tax credit.**

(1) For ~~[tax]~~ taxable years beginning on or after January 1, 1996, ~~[the following state tax credits are applicable to]~~ an individual in a recycling market development zone as defined in Section 9-2-1602~~[:]~~ may claim a tax credit as provided in this section.

(a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

(A) commercial composting; or

(B) manufacturing facilities or plant units that:

(I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(II) reduce or reuse postconsumer waste material.

(ii) The Department of Community and Economic Development shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:

(A) on a form provided by the [tax] commission; and

(B) before [the] a taxpayer is [entitled to the] allowed a tax credit under this section.

(iii) The Department of Community and Economic Development shall provide a taxpayer seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

~~[(iii)]~~ (iv) The taxpayer described in Subsection (1)(a)(iii) shall ~~[enclose with its tax return the certification]~~ retain a copy of the form received under Subsection (1)(a)~~[(ii)]~~(iii).



(b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures up to \$10,000 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 Utah, with an annual maximum tax credit of \$2,000.

(2) The total nonrefundable tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried over for credit against the individual's income taxes in the three succeeding taxable years until the total tax credit amount is used.

(b) Tax credits not claimed by an individual on the individual's state income tax return within three years are forfeited.

(4) The [~~tax~~] commission shall make rules governing what information shall be filed with the [~~tax~~] commission to verify the entitlement to and amount of a tax credit.

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, 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 9-2-413.

(b) For a taxable year other than a taxable year during which the taxpayer may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim or carry forward a tax credit described in Subsection (1)(a):

(i) if the taxpayer may claim or carry forward the tax credit in accordance with Subsections (1) and (2); and

(ii) subject to Subsections (3) and (4).

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, 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 9-2-413.

(7) A taxpayer may not claim or carry forward a tax credit available under this section for a taxable year during which the taxpayer has claimed the targeted business income tax credit available under Section 9-2-1803.

Section 8. Section **59-10-109** is amended to read:

**59-10-109. Targeted jobs tax credit.**

(1) As used in this section, "individual with a disability" means an individual who:

(a) has been receiving services;

(i) from a day-training program that is:

(A) for persons with disabilities~~[-which is]; and~~

(B) certified by the Department of Human Services as a qualifying program~~[-]; and~~

(ii) for at least six consecutive months prior to working for the employer claiming the tax credit under this section; or

(b) is eligible for services from the Division of Services for People with Disabilities at the time the individual begins working for the employer claiming the tax credit under this section.

(2) For taxable years beginning on or after January 1, 1995, there is allowed a nonrefundable tax credit against tax otherwise due under this chapter for an employer ~~[who]~~ that:

(a) meets the unemployment and workers' compensation requirements of Title 34A, Utah Labor Code~~[-];~~ and

(b) hires an individual with a disability who:

~~[(a)]~~ (i) works in this state for at least 180 days in a taxable year for that employer; and

~~[(b)]~~ (ii) is paid at least minimum wages by that employer.

(3) The tax credit shall be in an amount equal to:

(a) 10% of the gross wages earned in the first 180 days of employment by the individual with a disability from the employer seeking the tax credit; and

(b) 20% of the gross wages earned in the remaining taxable year by the individual with a disability from the employer seeking the tax credit.

(4) The tax credit which may be taken by an employer under this section shall be:

(a) limited to \$3,000 per year per individual with a disability; and  
(b) allowed only for the first two years the individual with a disability is employed by the employer.

(5) Any amount of tax credit remaining may be carried forward two taxable years following the taxable year of the employment eligible for the tax credit provided in this section.

(6) (a) The Division of Services for People with Disabilities shall certify that an employer qualifies for the tax credit provided in this section on a form provided by the [~~tax~~] commission.

(b) The form described in Subsection (6)(a) shall include the name and Social Security number of the individual for whom the tax credit is claimed.

(c) The Division of Services for People with Disabilities shall provide the employer described in Subsection (6)(a) with a copy of the form described in this Subsection (6).

~~[(b) An]~~ (d) The employer described in Subsection (6)(a) shall [attach] retain the [certification] form [obtained from the Division of Services for People with Disabilities to the tax return in which the credit is claimed] described in this Subsection (6).

Section 9. Section **59-10-127** is amended to read:

**59-10-127. Definitions -- Tax credit -- Cleaner burning fuels.**

(1) As used in this section:

(a) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air Conservation Act.

(b) "Certified by the board" means that:

(i) a motor vehicle on which conversion equipment has been installed meets the following criteria:

(A) before the installation of conversion equipment, the vehicle does not exceed the emission cut points for a transient test driving cycle, as specified in 40 [~~CFR~~] C.F.R. Part 51, Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

(B) the motor vehicle's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(b), is less than the emissions were before the installation of conversion

equipment; and

(C) a reduction in emissions under Subsection (1)(b)(i)(B) is demonstrated by:

(I) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the board;

(II) testing the motor vehicle, before and after installation of the conversion equipment, in accordance with 40 [CFR] C.F.R. Part 86, Control [of Air Pollution] Emissions from New and In-use [Motor Vehicle] Highway Vehicles and Engines[-Certification and Test Procedures], using all fuels the motor vehicle is capable of using; or

(III) any other test or standard recognized by board rule; or

(ii) special mobile equipment on which conversion equipment has been installed meets the following criteria:

(A) the special mobile equipment's emissions of regulated pollutants, when operating on fuels listed in Subsection (2)(c), is less than the emissions were before the installation of conversion equipment; and

(B) a reduction in emissions under Subsection (1)(b)(ii)(A) is demonstrated by:

(I) certification of the conversion equipment by the federal Environmental Protection Agency or by a state whose certification standards are recognized by the board; or

(II) any other test or standard recognized by the board.

(c) "Clean fuel grant" means a grant the taxpayer receives under Title 9, Chapter 1, Part 7, Clean Fuels Conversion Program Act, for reimbursement of a portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.

(d) "Conversion equipment" means equipment referred to in Subsection (2)(b) or (2)(c).

(e) "Incremental cost" has the same meaning as in Section 63-34-202.

(f) "OEM vehicle" has the same meaning as in Section 63-34-202.

(g) "Special mobile equipment":

(i) means any mobile equipment or vehicle not designed or used primarily for the transportation of persons or property; and

(ii) includes construction or maintenance equipment.

(2) For taxable years beginning on or after January 1, 2001, but beginning on or before December 31, 2005, a taxpayer may claim a tax credit against tax otherwise due under this chapter in an amount equal to:

(a) 50% of the incremental cost of an OEM vehicle registered in Utah minus the amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if the vehicle:

(i) is fueled by propane, natural gas, or electricity;

(ii) is fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(a)(i); or

(iii) meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.;

(b) 50% of the cost of equipment for conversion, if certified by the board, of a motor vehicle registered in Utah minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of \$2,500 per vehicle, if the motor vehicle:

(i) is to be fueled by propane, natural gas, or electricity;

(ii) is to be fueled by other fuel the board determines annually on or before July 1 to be at least as effective in reducing air pollution as fuels under Subsection (2)(b)(i); or

(iii) will meet the federal clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

(c) 50% of the cost of equipment for conversion, if certified by the board, of a special mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to be fueled by:

(i) propane, natural gas, or electricity; or

(ii) other fuel the board determines annually on or before July 1 to be:

(A) at least as effective in reducing air pollution as the fuels under Subsection (2)(c)(i);

or

(B) substantially more effective in reducing air pollution than the fuel for which the engine was originally designed.

(3) An individual 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) [~~attaching~~] retaining the written statement [~~obtained from the board to the tax return in which the credit is claimed~~] described in Subsection (3)(b).

(4) Except as provided by Subsection (5), [~~this~~] the tax credit under this section is allowed only:

- (a) against any Utah tax owed in the taxable year by the taxpayer;
  - (b) in the taxable year in which the item is purchased for which the tax credit is claimed;
- and
- (c) once per vehicle.

(5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the tax liability may be carried forward for a period that does not exceed the next five taxable years.

Section 10. Section **59-10-128** is amended to read:

**59-10-128. 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 [~~tax~~] 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 of and installation services cost of each pellet burning stove, high mass wood stove, and solid fuel burning device 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) An individual 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 [it] the board requires by rule;
- (b) receiving a written statement from the board acknowledging receipt of the proof; and
- (c) [~~attaching~~] retaining the written statement [~~obtained from the board to the tax return~~

~~in which the credit is claimed~~] described in Subsection (3)(b).

(4) [~~This~~] The tax credit under this section is allowed only:

- (a) against any Utah tax owed in the taxable year by the taxpayer; and
- (b) [~~in~~] for the taxable year in which the item is purchased for which the tax credit is

claimed.

Section 11. Section **59-10-129** is amended to read:

**59-10-129. Utah low-income housing tax credit.**

(1) As used in this section:

(a) "Allocation certificate" means:

- (i) the certificate prescribed by the [~~tax~~] commission and issued by the Utah Housing Corporation to each taxpayer that specifies the percentage of the annual federal low-income housing tax credit that each taxpayer may take as an annual credit against state income tax; or
- (ii) a copy of the allocation certificate that the housing sponsor provides to the taxpayer.

(b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Federal low-income housing tax credit" means the tax credit under Section 42, Internal Revenue Code.

(d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership in the case of a partnership, a corporation in the case of an S corporation, or a limited liability company in the case of a limited liability company.

(e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

(f) "Special low-income housing tax credit certificate" means a certificate:

- (i) prescribed by the [~~tax~~] commission;

(ii) that a housing sponsor issues to a taxpayer for a taxable year; and

(iii) that specifies the amount of a tax credit a taxpayer may claim under this section if the taxpayer meets the requirements of this section.

(g) "Taxpayer" means ~~[the]~~ a person ~~[entitled to the]~~ that is allowed a tax credit ~~[provided under]~~ in accordance with this section which is the corporation in the case of a C corporation, the partners in the case of a partnership, the shareholders in the case of an S corporation, and the members in the case of a limited liability company.

(2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a nonrefundable tax credit against taxes otherwise due under this chapter for taxpayers issued an allocation certificate.

(b) The tax credit shall be in an amount equal to the greater of the amount of:

(i) federal low-income housing tax credit to which the taxpayer is ~~[entitled]~~ allowed during that year multiplied by the percentage specified in an allocation certificate issued by the Utah Housing Corporation; or

(ii) tax credit specified in the special low-income housing tax credit certificate that the housing sponsor issues to the taxpayer as provided in Subsection (2)(c).

(c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

(i) the total amount of low-income housing tax credit under this section that:

(A) a housing sponsor is allowed for a building; and

(B) all of the taxpayers may claim with respect to the building if the taxpayers meet the requirements of this section; and

(ii) the percentage of tax credit a taxpayer may claim:

(A) under this section if the taxpayer meets the requirements of this section; and

(B) as provided in the agreement between the taxpayer and the housing sponsor.

(d) (i) For the calendar year beginning on January 1, 1995, through the calendar year beginning on January 1, 2005, the aggregate annual tax credit ~~[which]~~ that the Utah Housing Corporation may allocate for the credit period described in Section 42(f), Internal Revenue Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:



(A) 12.5 cents; and

(B) the population of Utah.

(ii) For purposes of this section, the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(3) (a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

(b) The Utah Housing 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 the residential housing development of which the building is a part;

(ii) the level of area median income being served by the development;

(iii) the need for the tax credit for the economic feasibility of the development; and

(iv) the extended period for which the development commits to remain as affordable housing.

(4) (a) ~~[Any]~~ The following may apply to the Utah Housing Corporation for a tax credit under this section:

(i) any housing sponsor that has received an allocation of the federal low-income housing tax credit ~~[and]; or~~

(ii) any applicant for an allocation of the federal low-income housing tax credit ~~[may apply to the Utah Housing Corporation for a credit under this section].~~

(b) The Utah Housing Corporation may not require fees for applications of the tax credit under this section in addition to those fees required for applications for the federal low-income housing tax credit.

(5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the Utah Housing Corporation.

(b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors by

issuing an allocation certificate to qualifying housing sponsors.

(ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed percentage of the federal low-income housing tax credit as determined by the Utah Housing Corporation.

(c) The percentage specified in an allocation certificate may not exceed 100% of the federal low-income housing tax credit.

(6) ~~[If a partnership, an S corporation, or a limited liability company qualifies for the credit provided in this section as a]~~ A housing sponsor~~[, it]~~ shall provide a copy of the allocation certificate to ~~[the taxpayers of the entity. (7) A taxpayer shall attach a copy of the allocation certificate to any return upon which a credit is claimed under this section.]~~ each taxpayer that is issued a special low-income housing tax credit certificate.

(7) (a) A housing sponsor shall provide to the commission a list of:

(i) the taxpayers issued a special low-income housing tax credit certificate; and

(ii) for each taxpayer described in Subsection (7)(a)(i), the amount of tax credit listed on the special low-income housing tax credit certificate.

(b) A housing sponsor shall provide the list required by Subsection (7)(a):

(i) to the commission;

(ii) on a form provided by the commission; and

(iii) with the housing sponsor's tax return for each taxable year for which the housing sponsor issues a special low-income housing tax credit certificate described in this Subsection (7).

(8) (a) All elections made by the taxpayer pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b) (i) If a taxpayer is required to recapture a portion of any federal low-income housing tax credit, the taxpayer shall also be required to recapture a portion of any state tax credits authorized by 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.

(9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) [~~credits~~] Tax credits that are unallocated by the Utah Housing Corporation in any year may be carried over for allocation in the subsequent year.

(10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the tax credit exceeds the tax, 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 (10)(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.

(11) Any tax credit taken in this section may be subject to an annual audit by the commission.

(12) The Utah Housing Corporation shall provide an annual report to the Revenue and Taxation Interim Committee which shall include at least:

(a) the purpose and effectiveness of the [~~exemption~~] tax credits; and

(b) the benefits of the [~~exemption~~] tax credits to the state.

(13) The commission may, in consultation with the Utah Housing Corporation, promulgate rules to implement this section.

Section 12. Section **59-10-507** is amended to read:

**59-10-507. Return by partnership.**

[~~Every~~] (1) For purposes of this section, "taxable year" means a year or other time period that would be a taxable year of a partnership if the partnership were subject to taxation under this chapter.

(2) A partnership having any income derived from sources in this state [~~(determined in accordance with Section 59-10-303)] shall make a return for the taxable year as prescribed by the commission[, and shall attach to such return a copy of its federal partnership return for the same year. For purposes of this section, "taxable year" means a year or period which would be a~~

taxable year of the partnership if it were subject to tax under this chapter].

(3) For purposes of Subsection (2), a partnership's income derived from sources in this state shall be determined in accordance with Section 59-10-303.

Section 13. Section **59-10-514** is amended to read:

**59-10-514. Place and time for filing returns.**

~~[The income]~~ (1) A tax return required by this chapter shall be filed with the commission:

(a) except as provided in Subsection (1)(b), on or before the 15th day of the fourth month following the ~~close~~ last day of the taxpayer's taxable year[-]; or

(b) notwithstanding Subsection (1)(a), on or before the day on which the return is due under the Internal Revenue Code if:

(i) the return is an electronically filed individual income tax return; and

(ii) the Internal Revenue Code provides a due date for filing the electronically filed individual income tax return that is different from the due date described in Subsection (1)(a).

(2) A person required to make and file a return under this chapter shall, without assessment, notice, or demand, pay any tax due ~~thereon~~:

(a) to the commission ~~or~~; and

(b) before the due date ~~fixed~~ for filing ~~such~~ the return ~~(determined without regard to any extension of time for filing the return)~~.

Section 14. **Retrospective operation.**

This act has retrospective operation for taxable years beginning on or after January 1, 2003.