

1 **DUE DATE FOR FILING ELECTRONICALLY**
2 **FILED WITHHOLDING RETURNS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Merlynn T. Newbold**

6 Senate Sponsor: Darin G. Peterson

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Withholding of Tax part to address the due date for filing
11 electronically filed withholding returns.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ provides that the due date for filing electronically filed withholding returns is the
- 15 same deadline for filing certain federal tax returns, which is currently on or before
- 16 March 31 of the year following the calendar year to which the returns relate; and
- 17 ▶ makes technical changes.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill provides an immediate effective date.

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **59-10-406**, as last amended by Chapter 198, Laws of Utah 2005

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

27 Section 1. Section **59-10-406** is amended to read:

28 **59-10-406. Collection and payment of tax.**

29 (1) (a) Each employer shall, on or before the last day of April, July, October, and

30 January, pay to the commission the amount required to be deducted and withheld from wages
31 paid to any employee during the preceding calendar quarter under this part.

32 (b) The commission may change the time or period for making reports and payments
33 if:

34 (i) in its opinion, the tax is in jeopardy; or

35 (ii) a different time or period will facilitate the collection and payment of the tax by the
36 employer.

37 (2) Each employer shall file a return, in a form the commission prescribes, with each
38 payment of the amount deducted and withheld under this part showing:

39 (a) the total amount of wages paid to his employees;

40 (b) the amount of federal income tax deducted and withheld;

41 (c) the amount of tax under this part deducted and withheld; and

42 (d) any other information the commission may require.

43 (3) (a) Each employer shall file an annual return, in a form the commission prescribes,
44 summarizing:

45 (i) the total compensation paid;

46 (ii) the federal income tax deducted and withheld; and

47 (iii) the state tax deducted and withheld for each employee during the calendar year.

48 (b) ~~[This return]~~ (i) Except as provided in Subsection (3)(b)(ii), the return required by
49 Subsection (3)(a) shall be filed with the commission on or before February 28 of the year
50 following that for which the report is made.

51 (ii) An annual return described in Subsection (3)(a) that is filed electronically shall be
52 filed with the commission on or before the date established in Section 6071(b), Internal
53 Revenue Code, for filing returns.

54 (4) (a) Each employer shall also, in accordance with rules prescribed by the
55 commission, provide each employee from whom state income tax has been withheld with a
56 statement of the amounts of total compensation paid and the amounts deducted and withheld
57 for that employee during the preceding calendar year in accordance with this part.

58 (b) The statement shall be made available to each employee described in Subsection
59 (4)(a) on or before January 31 of the year following that for which the report is made.

60 (5) (a) The employer is liable to the commission for the payment of the tax required to
61 be deducted and withheld under this part.

62 (b) If an employer pays the tax required to be deducted and withheld under this part:

63 (i) an employee of the employer is not liable for the amount of any payment described
64 in Subsection (5)(a); and

65 (ii) the employer is not liable to any person or to any employee for the amount of any
66 such payment described in Subsection (5)(a).

67 (c) For the purpose of making penal provisions of this title applicable, any amount
68 deducted or required to be deducted and remitted to the commission under this part is
69 considered to be the tax of the employer and with respect to such amounts the employer is
70 considered to be the taxpayer.

71 (6) (a) Each employer that deducts and withholds any amount under this part shall hold
72 the amount in trust for the state for the payment of the amount to the commission in the manner
73 and at the time provided for in this part.

74 (b) So long as any delinquency continues, the state shall have a lien to secure the
75 payment of any amounts withheld, and not remitted as provided under this section, upon all of
76 the assets of the employer and all property owned or used by the employer in the conduct of the
77 employer's business, including stock-in-trade, business fixtures, and equipment.

78 (c) The lien described in Subsection (6)(b) shall be prior to any lien of any kind,
79 including existing liens for taxes.

80 (7) To the extent consistent with this section, the commission may use all the
81 provisions of this chapter relating to records, penalties, interest, deficiencies, redetermination
82 of deficiencies, overpayments, refunds, assessments, and venue to enforce this section.

83 (8) For all taxable years beginning on or after January 1, 2001, an employer that is
84 required to file a federal Form W-2 in an electronic format with the Federal Department of the
85 Treasury Internal Revenue Service shall file each Form W-2 that is required to be filed with the

86 commission in an electronic format approved by the commission.

87 Section 2. **Effective date.**

88 If approved by two-thirds of all the members elected to each house, this bill takes effect
89 upon approval by the governor, or the day following the constitutional time limit of Utah
90 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
91 the date of veto override.