

1 **PAYMENT OF TAX OR BONDING IN TAX**

2 **CASES**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Howard A. Stephenson**

6 House Sponsor: David Clark

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the procedures and requirements to seek judicial review of a State Tax
11 Commission redetermination of a tax deficiency.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ amends the procedures and requirements related to the judicial review of a State
- 15 Tax Commission redetermination of a tax deficiency; and
- 16 ▶ makes technical changes.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill provides an effective date.

21 **Utah Code Sections Affected:**

22 ENACTS:

23 **59-1-611**, Utah Code Annotated 1953

24 REPEALS:

25 **59-1-505**, as last amended by Chapter 214, Laws of Utah 1996

26

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



28 Section 1. Section **59-1-611** is enacted to read:

29 **59-1-611. Payment of tax on appeal -- Interest.**

30 (1) As used in this section, "post security" means:

31 (a) posting with the commission, for the full or a partial amount of the deficiency as
 32 determined by the commission:

33 (i) a letter of credit;

34 (ii) a bond; or

35 (iii) other similar financial instrument acceptable to the commission; or

36 (b) as determined by the commission, depositing with the commission:

37 (i) the full amount of the deficiency; or

38 (ii) a partial amount of the deficiency.

39 (2) Except as provided in Subsection (3), a taxpayer that seeks judicial review of a final
 40 commission redetermination of a deficiency shall post security with the commission.

41 (3) The commission shall waive the requirements of Subsection (2) if a taxpayer
 42 establishes:

43 (a) that the taxpayer has ~~§~~ → [assets or income worth substantially more than the amount of
 44 the deficiency] sufficient financial resources to pay the deficiency if the deficiency is upheld in a
 44a final unappealable judgment or order by a court of competent jurisdiction ← § ; or

45 (b) as determined by the commission, that collection of the deficiency that is the
 46 subject of the appeal is not jeopardized by waiving the requirements of Subsection (2).

47 (4) (a) The commission may not unreasonably deny a waiver described in Subsection
 48 (3).

49 (b) A taxpayer may seek judicial review of the commission's decision to deny a waiver
 50 under Subsection (3) by the court reviewing the redetermination of the deficiency.

51 (5) If a taxpayer fails to comply with the requirements of Subsection (2), the reviewing
 52 court may, in its discretion, dismiss the taxpayer's appeal of the redetermination of the
 53 deficiency.

54 (6) If the commission grants a waiver under Subsection (3), the taxpayer shall pay any
 55 tax, interest, or penalties:

56 (a) ordered by a court of competent jurisdiction; and

57 (b) within a 45-day period beginning on the day on which the order described in
 58 Subsection (6)(a) becomes final.

59 (7) If a taxpayer posts security with the commission, or the commission grants a waiver
60 in accordance with this section, interest shall accrue on the unpaid taxes that are the subject of
61 the deficiency at the rate and in the manner provided in Section 59-1-402.

62 Section 2. **Repealer.**

63 This bill repeals:

64 Section **59-1-505, Prerequisites to appeal -- Interest.**

65 Section 3. **Effective date.**

66 (1) Except as provided in Subsection (2), this bill applies to an appeal of a
67 redetermination of a deficiency filed on or after May 1, 2006.

68 (2) This bill applies to an appeal of the redetermination of a deficiency, of a State Tax
69 Commission decision filed before May 1, 2006, if, as of January 1, 2006, the reviewing court
70 has not issued a final unappealable judgment or order on the appeal.

Legislative Review Note
as of 2-6-06 11:52 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0225

Payment of Tax or Bonding in Tax Cases

10-Feb-06

11:47 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst