

**PAYMENT OF TAX OR BONDING IN TAX**

**CASES**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Howard A. Stephenson**

House Sponsor: David Clark

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an effective date.

**Utah Code Sections Affected:**

ENACTS:

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

REPEALS:

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

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

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

**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 sufficient financial resources to pay the deficiency if the  
44 deficiency is upheld in a final unappealable judgment or order by a court of competent  
45 jurisdiction; or

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

48 (4) (a) The commission may not unreasonably deny a waiver described in Subsection  
49 (3).

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

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

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

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

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

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

63           Section 2. **Repealer.**

64           This bill repeals:

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

66           Section 3. **Effective date.**

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

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