

1st Sub. S.B. 74

PENALTIES RELATING TO TAXES, FEES, OR CHARGES

SENATE FLOOR AMENDMENTS

AMENDMENT 1

FEBRUARY 7, 2007 11:16 AM

Senator **Howard A. Stephenson** proposes the following amendments:

1. *Page 1, Lines 10 through 15:*

10 General Description:

11 This bill amends the State Tax Commission chapter relating to penalties and related payments .

12 Highlighted Provisions:

13 This bill:

14 ▶ defines terms;

15 ▶ modifies penalty and related payment provisions that apply to taxes, fees, or charges with respect to the

2. *Page 2, Line 28:*

28 59-1-401, as last amended by Chapters 67 and 255, Laws of Utah 2004

= 59-7-507, as last amended by Chapter 311, Laws of Utah 1995

59-10-516, as last amended by Chapter 332, Laws of Utah 1997

3. *Page 3, Lines 60 through 64:*

60 (e) (i) "Phase II obligation" means:

= (A) a payment under Chapter 6, Mineral Production Tax Withholding;

61 {~~(A)~~} (B) a tax under Chapter 7, Corporate Franchise and Income Taxes; {~~or~~}

62 {~~(B)~~} (C) a payment under Chapter 10, Part 4, Withholding of Tax {~~:~~} ; or

(D) a tax paid on a return filed in accordance with Section 59-10-507.

63 (ii) "Phase II obligation" does not include a payment of estimated tax under Section

64 59-7-504.

4. *Page 10, Lines 279 through 287:*

279 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a
280 person allowed by law an extension of time for filing a corporate franchise or income tax return
281 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return
282 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in
283 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not
284 including the extension of time, the person fails to pay {~~the lesser of~~} :

285 (i) {~~90% of the total tax reported on the return for the current taxable year~~} for a person

filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b) ; or

286 (ii) ~~{100% of the total tax liability for the taxable year immediately preceding the~~
287 ~~current taxable year}~~ **for a person filing an individual income tax return under Chapter 10,**
Individual Income Tax Act, the payment required by Subsection 59-10-516(2) .

5. Page 10, Lines 291 through 295:

291 (6) (a) If a person does not file a return within an extension of time allowed by Section
292 59-7-505 or 59-10-516 , the person :
293 (i) ~~{the person}~~ is not subject to a penalty in the amount described in Subsection (5)(b);
294 and
295 (ii) is subject to a penalty in the amount described in Subsection (6)(b).

6. Page 17, Line 511:

511 penalty provisions relating to a tax, fee, or charge should be modified or repealed.

= **Section 2. Section 59-7-507 is amended to read:**
59-7-507. Payment of tax.

(1) (a) If quarterly estimated payments are not made as provided in Section 59-7-504, the amount of tax imposed by this chapter shall be paid no later than the original due date of the return.

(b) If an extension of time is necessary for filing a return, as provided in Subsection 59-7-505(3) or Section 59-7-803, payment must be made no later than the original due date of the return in an amount equal to the lesser of :

= **(i) The greater of:**

~~{(i)}~~ **(A)** 90% of the total ~~{amount of}~~ tax ~~{due with}~~ **reported on** the return ~~{when filed}~~ **for the current taxable year;** or

= **(B)** 100% of the minimum tax ~~{due under}~~ **described in** Section 59-7-104 ~~{, whichever is greater}~~ ; or

(ii) 100% of the ~~{amount of tax paid for the previous year}~~ **total tax liability for the taxable year immediately preceding the current taxable year** .

(c) If payment is not made as provided in Subsection (1)(b), the commission shall add an extension penalty as provided in Section 59-1-401, until the tax is paid during the period of extension.

(2) **(a)** At the request of the taxpayer, the commission may extend the time for payment of the amount determined as the tax by the taxpayer, or any part ~~{thereof}~~ **of that amount** , for a period not to exceed six months from the date prescribed for the payment of the tax. ~~{In such case}~~

= **(b) For purposes of Subsection(2)(a),** the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

= **Section 3. Section 59-10-516 is amended to read:**

59-10-516. Filing extension -- Payment of tax -- Penalty -- Foreign residency.

(1) (a) The commission shall allow a taxpayer an extension of time for filing returns.

(b) The extension under Subsection (1)(a) may not exceed six months.

(2) (a) Except as provided in Subsection (2)(b), the commission may not impose on a taxpayer during the extension period prescribed under Subsection (1) a penalty under Section 59-1-401 if the taxpayer pays, on or before the 15th day of the fourth month following the close of the taxpayer's taxable year , the lesser of :

(i) ~~{-at least}~~ 90% of the total tax reported on the ~~{-income tax}~~ return ~~{-when it is filed}~~ for the current taxable year ; or

~~{(ii) an amount equal to the total amount of tax reported on the income tax return for the previous year-}~~

= (ii) 100% of the total tax liability for the taxable year immediately preceding the current taxable year.

(b) If a taxpayer fails to meet the requirements of Subsection (2)(a), the commission may apply to the total balance due a penalty as provided in Section 59-1-401.

(3) If any federal income tax return filing is lawfully delayed pending a determination of qualification for federal tax exemption due to residency outside of the United States, a taxpayer shall file a return within 30 days after that determination is made.