

1 **AMENDMENTS TO INDIVIDUAL INCOME TAX**
2 **RETURN FILING REQUIREMENTS**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: J. Stuart Adams**

6 House Sponsor: Todd E. Kiser

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Individual Income Tax Act to address return filing requirements.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies the definition of electronic;
- 14 ▶ repeals the definition of scan technology;
- 15 ▶ repeals a requirement that under certain circumstances an income tax return
- 16 preparer file a return by scan technology;
- 17 ▶ repeals related provisions addressing scan technology; and
- 18 ▶ makes technical and conforming changes.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill has retrospective operation for a taxable year beginning on or after January 1,
23 2010.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **59-10-514.1**, as last amended by Laws of Utah 2008, Chapter 382

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

29 Section 1. Section **59-10-514.1** is amended to read:

30 **59-10-514.1. Definitions -- Requirement to file returns by electronic means --**
31 **Exceptions -- Waiver.**

32 (1) As used in this section:

33 [~~(a) (i) "electronic" means using a technology other than scan technology; and~~
34 [~~(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
35 ~~the commission may make rules defining "technology";]~~

36 (a) "Electronic" is as defined in Section 59-12-102.

37 (b) (i) [~~except~~] Except as provided in Subsection (1)(b)(ii), "income tax return
38 preparer" means an individual that prepares for compensation a return required to be filed by
39 this chapter[;].

40 (ii) [~~notwithstanding Subsection (1)(b)(i), "income~~] "Income tax return preparer" does
41 not include an individual who:

42 (A) performs only one or more of the following relating to a return required to be filed
43 by this chapter:

44 (I) types the return;

45 (II) reproduces the return; or

46 (III) performs an action similar to Subsection (1)(b)(ii)(A)(I) or (II) as determined by
47 the commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
48 Rulemaking Act; or

49 (B) prepares a return required to be filed by this chapter:

50 (I) of the individual's employer or an officer or employee of the employer if the
51 individual is regularly and continuously employed by that employer;

52 (II) of any person if that individual is a fiduciary for that person; or

53 (III) for a taxpayer in response to a tax order issued to that taxpayer[;].

54 (c) "[~~prepare~~] Prepare" means to prepare a substantial portion or more of a return
55 required to be filed by this chapter[;].

56 (d) (i) [~~except~~] Except as provided in Subsection (1)(d)(ii), "qualifying return" means
57 a return required to be filed by this chapter for any taxable year that begins on or after the

58 January 1 described in Subsection (2)(c)(i)~~;~~ and].

59 (ii) ~~[notwithstanding Subsection (1)(d)(i), "qualifying]~~ "Qualifying return" does not
60 include:

61 (A) an amended return; or

62 (B) (I) a return filed for any taxable year that begins before the first day of the current
63 taxable year; and

64 (II) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
65 the commission may make rules defining "current taxable year"~~;~~ and].

66 ~~[(e) (i) "scan technology" means technology that:]~~

67 ~~[(A) allows a return to be scanned; and]~~

68 ~~[(B) is approved by the commission; and]~~

69 ~~[(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~
70 ~~the commission may by rule specify what types of technology constitute scan technology.]~~

71 (2) (a) Subject to Subsections (2)(b) and (c) and except as provided in Subsection (3),
72 an income tax return preparer shall file all qualifying returns ~~[using scan technology or]~~ by
73 electronic means if the income tax return preparer prepares in any calendar year beginning on
74 or after January 1, 2005, a total of 101 or more returns required to be filed by this chapter.

75 (b) (i) For purposes of Subsection (2)(a), if two or more income tax return preparers
76 are affiliated with the same establishment, the total number of returns required to be filed by
77 this chapter that are prepared in a calendar year beginning on or after January 1, 2005, by all
78 of the income tax return preparers that are affiliated with that establishment shall be included
79 in determining whether an income tax return preparer prepares in a calendar year beginning on
80 or after January 1, 2005, a total of 101 or more returns required to be filed by this chapter.

81 (ii) For purposes of Subsection (2)(b)(i), in accordance with Title 63G, Chapter 3,
82 Utah Administrative Rulemaking Act, the commission may by rule determine the
83 circumstances under which two or more income tax return preparers are affiliated with the
84 same establishment.

85 (c) If an income tax return preparer is required by this Subsection (2) to file all

86 qualifying returns [~~using scan technology or~~] by electronic means, the income tax return
87 preparer shall file those qualifying returns [~~using scan technology or~~] by electronic means:

88 (i) beginning on January 1 of the first calendar year immediately following the day on
89 which the income tax return preparer meets the requirements of this Subsection (2); and

90 (ii) for all calendar years after the calendar year described in Subsection (2)(c)(i).

91 (3) [~~Notwithstanding Subsection (2), an~~] An income tax return preparer is not required
92 to file a qualifying return [~~using scan technology or~~] by electronic means if:

93 (a) a schedule required to be attached to the qualifying return cannot be filed [~~using~~
94 ~~scan technology or~~] by electronic means;

95 (b) the taxpayer for which the qualifying return is prepared requests in writing that the
96 income tax return preparer not file the qualifying return [~~using scan technology or~~] by
97 electronic means; or

98 (c) subject to Subsection (4), the commission waives for one or more qualifying
99 returns filed by the income tax return preparer the requirement imposed by this section to file
100 the qualifying returns [~~using scan technology or~~] by electronic means.

101 (4) (a) For purposes of Subsection (3)(c), the commission may waive for one or more
102 qualifying returns filed by an income tax return preparer the requirement imposed by this
103 section to file the qualifying returns [~~using scan technology or~~] by electronic means if the
104 income tax return preparer demonstrates to the commission that it would be an undue hardship
105 to file the qualifying returns [~~using scan technology or~~] by electronic means.

106 (b) For purposes of Subsection (4)(a) and in accordance with Title 63G, Chapter 3,
107 Utah Administrative Rulemaking Act, the commission shall by rule define the circumstances
108 that constitute an undue hardship to file a qualifying return [~~using scan technology or~~] by
109 electronic means.

110 **Section 2. Retrospective operation.**

111 This bill has retrospective operation for a taxable year beginning on or after January 1,
112 2010.