

1 **INCOME TAX - PASS-THROUGH ENTITIES**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Wayne L. Niederhauser**

5 House Sponsor: Patrick Painter

6

LONG TITLE

7 **General Description:**

8 This bill amends the Individual Income Tax Act to address provisions related to a
9 pass-through entity.
10

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ provides that a pass-through entity includes certain estates and trusts;
- 15 ▶ provides that a pass-through entity taxpayer includes certain beneficiaries of an
16 estate or trust;
- 17 ▶ addresses pass-through entity withholding exemptions;
- 18 ▶ provides that certain penalties and interest may not be imposed if a pass-through
19 entity that is a trust fails to pay or withhold an amount with respect to a dependent
20 beneficiary; ~~§~~ → [and]

20a ▶ establishes a rebuttable presumption for purposes of an audit; and ← ~~§~~

- 21 ▶ makes technical and conforming changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 This bill takes effect for a taxable year beginning on or after January 1, 2013.

26 **Utah Code Sections Affected:**

27 AMENDS:



245 income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes; or

246 (B) if the pass-through entity taxpayer is classified as an estate, individual, partnership,
247 S corporation, or a trust for federal income tax purposes, under this chapter; and

248 (c) the pass-through entity applies to the commission.

249 (6) Notwithstanding Section 59-1-401 or 59-1-402, the commission may not collect an
250 amount under this section for a taxable year from a pass-through entity that is a trust and shall
251 waive any penalty and interest on that amount if:

252 (a) the pass-through entity fails to pay or withhold the tax on the amount as required by
253 this section on behalf of a dependent beneficiary;

254 (b) the pass-through entity applies to the commission; and

255 (c) (i) the dependent beneficiary complies with the requirements of Subsection (5)(b);

256 or

257 (ii) (A) the dependent beneficiary's adjusted gross income for the taxable year does not
258 exceed the basic standard deduction for the dependent beneficiary, as calculated under Section
259 63, Internal Revenue Code, for that taxable year; and

260 (B) the trustee of the trust retains a statement of dependent beneficiary income on
261 behalf of the dependent beneficiary.

261a **§→ (7) If a pass-through entity would have otherwise qualified for a waiver of a penalty and**
261b **interest under Subsection (6), except that the trustee of a trust has not applied to the**
261c **commission as required by Subsection (6)(b) or retained the statement of dependent**
261d **beneficiary income required by Subsection (6)(c)(ii)(B), it is a rebuttable presumption in an**
261e **audit that the pass-through entity would have otherwise qualified for the waiver of the penalty**
261f **and interest under Subsection (6). ←§**

262 Section 3. **Effective date.**

263 This bill takes effect for a taxable year beginning on or after January 1, 2013.

Legislative Review Note
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Office of Legislative Research and General Counsel