

1                   **TAX, FEE, OR CHARGE OFFENSE AND PENALTY**  
2                                   **AMENDMENTS**

3                                   2014 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Curtis S. Bramble**

6                                   House Sponsor: Ryan D. Wilcox

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8 **LONG TITLE**

9 **General Description:**

10           This bill amends provisions related to offenses and penalties.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ amends provisions related to offenses and penalties for purposes of a tax, fee, or  
14 charge administered by the State Tax Commission; and  
15           ▶ makes technical and conforming changes.

16 **Money Appropriated in this Bill:**

17           None

18 **Other Special Clauses:**

19           None

20 **Utah Code Sections Affected:**

21 AMENDS:

22           **59-1-401**, as last amended by Laws of Utah 2012, Chapters 312 and 357

23           **76-8-1101**, as last amended by Laws of Utah 2009, Chapter 336

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

26           Section 1. Section **59-1-401** is amended to read:

27           **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**



28 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**  
29 **interest.**

30 (1) As used in this section:

31 (a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the  
32 commission:

33 (i) has implemented the commission's GenTax system; and

34 (ii) at least 30 days before implementing the commission's GenTax system as described  
35 in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website  
36 stating:

37 (A) the date the commission will implement the GenTax system with respect to the tax,  
38 fee, or charge; and

39 (B) that, at the time the commission implements the GenTax system with respect to the  
40 tax, fee, or charge:

41 (I) a person that files a return after the due date as described in Subsection (2)(a) is  
42 subject to the penalty described in Subsection (2)(c)(ii); and

43 (II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is  
44 subject to the penalty described in Subsection (3)(b)(ii).

45 (b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or  
46 charge, the later of:

47 (i) the date on which the commission implements the commission's GenTax system  
48 with respect to the tax, fee, or charge; or

49 (ii) 30 days after the date the commission provides the notice described in Subsection  
50 (1)(a)(ii) with respect to the tax, fee, or charge.

51 (c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

52 (A) a tax, fee, or charge the commission administers under:

53 (I) this title;

54 (II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

55 (III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

56 (IV) Section 19-6-410.5;

57 (V) Section 19-6-714;

58 (VI) Section 19-6-805;

- 59 (VII) Section 32B-2-304;
- 60 (VIII) Section 34A-2-202;
- 61 (IX) Section 40-6-14;
- 62 (X) Section 69-2-5;
- 63 (XI) Section 69-2-5.5; or
- 64 (XII) Section 69-2-5.6; or
- 65 (B) another amount that by statute is subject to a penalty imposed under this section.
- 66 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
- 67 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
- 68 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
- 69 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
- 70 (D) Chapter 3, Tax Equivalent Property Act; or
- 71 (E) Chapter 4, Privilege Tax.
- 72 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated
- 73 tax, fee, or charge.
- 74 (2) (a) The due date for filing a return is:
- 75 (i) if the person filing the return is not allowed by law an extension of time for filing
- 76 the return, the day on which the return is due as provided by law; or
- 77 (ii) if the person filing the return is allowed by law an extension of time for filing the
- 78 return, the earlier of:
- 79 (A) the date the person files the return; or
- 80 (B) the last day of that extension of time as allowed by law.
- 81 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a
- 82 return after the due date described in Subsection (2)(a).
- 83 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:
- 84 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated
- 85 tax, fee, or charge:
- 86 (A) \$20; or
- 87 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
- 88 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,
- 89 fee, or charge, beginning on the activation date for the tax, fee, or charge:

90 (A) \$20; or

91 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is  
92 filed no later than five days after the due date described in Subsection (2)(a);

93 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed  
94 more than five days after the due date but no later than 15 days after the due date described in  
95 Subsection (2)(a); or

96 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is  
97 filed more than 15 days after the due date described in Subsection (2)(a).

98 (d) This Subsection (2) does not apply to:

99 (i) an amended return; or

100 (ii) a return with no tax due.

101 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

102 (i) the person files a return on or before the due date for filing a return described in  
103 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due  
104 date;

105 (ii) the person:

106 (A) is subject to a penalty under Subsection (2)(b); and

107 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the  
108 due date for filing a return described in Subsection (2)(a);

109 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and

110 (B) the commission estimates an amount of tax due for that person in accordance with  
111 Subsection 59-1-1406(2);

112 (iv) the person:

113 (A) is mailed a notice of deficiency; and

114 (B) within a 30-day period after the day on which the notice of deficiency described in  
115 Subsection (3)(a)(iv)(A) is mailed:

116 (I) does not file a petition for redetermination or a request for agency action; and

117 (II) fails to pay the tax, fee, or charge due on a return;

118 (v) (A) the commission:

119 (I) issues an order constituting final agency action resulting from a timely filed petition  
120 for redetermination or a timely filed request for agency action; or

121 (II) is considered to have denied a request for reconsideration under Subsection  
122 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed  
123 request for agency action; and

124 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period  
125 after the date the commission:

126 (I) issues the order constituting final agency action described in Subsection  
127 (3)(a)(v)(A)(I); or

128 (II) is considered to have denied the request for reconsideration described in  
129 Subsection (3)(a)(v)(A)(II); or

130 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date  
131 of a final judicial decision resulting from a timely filed petition for judicial review.

132 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

133 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with  
134 respect to an unactivated tax, fee, or charge:

135 (A) \$20; or

136 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

137 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with  
138 respect to an activated tax, fee, or charge, beginning on the activation date:

139 (A) \$20; or

140 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated  
141 tax, fee, or charge due on the return is paid no later than five days after the due date for filing a  
142 return described in Subsection (2)(a);

143 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax,  
144 fee, or charge due on the return is paid more than five days after the due date for filing a return  
145 described in Subsection (2)(a) but no later than 15 days after that due date; or

146 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated  
147 tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a  
148 return described in Subsection (2)(a).

149 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or  
150 quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there  
151 shall be added a penalty in an amount determined by applying the interest rate provided under

152 Section 59-1-402 plus four percentage points to the amount of the underpayment for the period  
153 of the underpayment.

154 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the  
155 excess of the required installment over the amount, if any, of the installment paid on or before  
156 the due date for the installment.

157 (ii) The period of the underpayment shall run from the due date for the installment to  
158 whichever of the following dates is the earlier:

159 (A) the original due date of the tax return, without extensions, for the taxable year; or

160 (B) with respect to any portion of the underpayment, the date on which that portion is  
161 paid.

162 (iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited  
163 against unpaid required installments in the order in which the installments are required to be  
164 paid.

165 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a  
166 person allowed by law an extension of time for filing a corporate franchise or income tax return  
167 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return  
168 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in  
169 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not  
170 including the extension of time, the person fails to pay:

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

173 (ii) for a person filing an individual income tax return under Chapter 10, Individual  
174 Income Tax Act, the payment required by Subsection 59-10-516(2).

175 (b) For purposes of Subsection (5)(a), the penalty per month during the period of the  
176 extension of time for filing the return is an amount equal to 2% of the tax due on the return,  
177 unpaid as of the day on which the return is due as provided by law.

178 (6) If a person does not file a return within an extension of time allowed by Section  
179 59-7-505 or 59-10-516, the person:

180 (a) is not subject to a penalty in the amount described in Subsection (5)(b); and

181 (b) is subject to a penalty in an amount equal to the sum of:

182 (i) a late file penalty in an amount equal to the greater of:

- 183 (A) \$20; or
- 184 (B) 10% of the tax due on the return, unpaid as of the day on which the return is due as  
185 provided by law, not including the extension of time; and
- 186 (ii) a late pay penalty in an amount equal to the greater of:
- 187 (A) \$20; or
- 188 (B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is  
189 due as provided by law, not including the extension of time.
- 190 (7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided  
191 in this Subsection (7)(a).
- 192 (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax,  
193 fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that  
194 is due to negligence.
- 195 (ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a  
196 tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire  
197 underpayment.
- 198 (iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge,  
199 the penalty is the greater of \$500 per period or 50% of the entire underpayment.
- 200 (iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or  
201 charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.
- 202 (b) If the commission determines that a person is liable for a penalty imposed under  
203 Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed  
204 penalty.
- 205 (i) The notice of proposed penalty shall:
- 206 (A) set forth the basis of the assessment; and
- 207 (B) be mailed by certified mail, postage prepaid, to the person's last-known address.
- 208 (ii) Upon receipt of the notice of proposed penalty, the person against whom the  
209 penalty is proposed may:
- 210 (A) pay the amount of the proposed penalty at the place and time stated in the notice;  
211 or
- 212 (B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).
- 213 (iii) A person against whom a penalty is proposed in accordance with this Subsection

214 (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with  
215 the commission.

216 (iv) (A) If the commission determines that a person is liable for a penalty under this  
217 Subsection (7), the commission shall assess the penalty and give notice and demand for  
218 payment.

219 (B) The commission shall mail the notice and demand for payment described in  
220 Subsection (7)(b)(iv)(A):

221 (I) to the person's last-known address; and

222 (II) in accordance with Section 59-1-1404.

223 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not  
224 subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

225 (i) a court of competent jurisdiction issues a final unappealable judgment or order  
226 determining that:

227 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
228 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
229 59-12-107(2)(b); and

230 (B) the commission or a county, city, or town may require the seller to collect a tax  
231 under Subsections 59-12-103(2)(a) through (d); or

232 (ii) the commission issues a final unappealable administrative order determining that:

233 (A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
234 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
235 59-12-107(2)(b); and

236 (B) the commission or a county, city, or town may require the seller to collect a tax  
237 under Subsections 59-12-103(2)(a) through (d).

238 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not  
239 subject to the penalty under Subsection (7)(a)(ii) if:

240 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order  
241 determining that:

242 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
243 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
244 59-12-107(2)(b); and



245 (II) the commission or a county, city, or town may require the seller to collect a tax  
246 under Subsections 59-12-103(2)(a) through (d); or

247 (B) the commission issues a final unappealable administrative order determining that:

248 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)  
249 or is a seller required to pay or collect and remit sales and use taxes under Subsection  
250 59-12-107(2)(b); and

251 (II) the commission or a county, city, or town may require the seller to collect a tax  
252 under Subsections 59-12-103(2)(a) through (d); and

253 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a  
254 nonfrivolous argument for the extension, modification, or reversal of existing law or the  
255 establishment of new law.

256 (8) The penalty for failure to file an information return, information report, or a  
257 complete supporting schedule is \$50 for each information return, information report, or  
258 supporting schedule up to a maximum of \$1,000.

259 (9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay  
260 or impede administration of a law relating to a tax, fee, or charge and files a purported return  
261 that fails to contain information from which the correctness of reported tax, fee, or charge  
262 liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is  
263 substantially incorrect, the penalty is \$500.

264 (10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by  
265 Subsection 59-12-108(1)(a):

266 (i) is subject to a penalty described in Subsection (2); and

267 (ii) may not retain the percentage of sales and use taxes that would otherwise be  
268 allowable under Subsection 59-12-108(2).

269 (b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as  
270 required by Subsection 59-12-108(1)(a)(ii)(B):

271 (i) is subject to a penalty described in Subsection (2); and

272 (ii) may not retain the percentage of sales and use taxes that would otherwise be  
273 allowable under Subsection 59-12-108(2).

274 (11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

275 (i) commits an act described in Subsection (11)(b) with respect to one or more of the

276 following documents:

277 (A) a return;

278 (B) an affidavit;

279 (C) a claim; or

280 (D) a document similar to Subsections (11)(a)(i)(A) through (C);

281 (ii) knows or has reason to believe that the document described in Subsection (11)(a)(i)

282 will be used in connection with any material matter administered by the commission; and

283 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection  
284 with any material matter administered by the commission, would result in an understatement of  
285 another person's liability for a tax, fee, or charge.

286 (b) The following acts apply to Subsection (11)(a)(i):

287 (i) preparing any portion of a document described in Subsection (11)(a)(i);

288 (ii) presenting any portion of a document described in Subsection (11)(a)(i);

289 (iii) procuring any portion of a document described in Subsection (11)(a)(i);

290 (iv) advising in the preparation or presentation of any portion of a document described  
291 in Subsection (11)(a)(i);

292 (v) aiding in the preparation or presentation of any portion of a document described in  
293 Subsection (11)(a)(i);

294 (vi) assisting in the preparation or presentation of any portion of a document described  
295 in Subsection (11)(a)(i); or

296 (vii) counseling in the preparation or presentation of any portion of a document  
297 described in Subsection (11)(a)(i).

298 (c) For purposes of Subsection (11)(a), the penalty:

299 (i) shall be imposed by the commission;

300 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which  
301 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

302 (iii) is in addition to any other penalty provided by law.

303 (d) The commission may seek a court order to enjoin a person from engaging in  
304 conduct that is subject to a penalty under this Subsection (11).

305 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
306 commission may make rules prescribing the documents that are similar to Subsections

307 (11)(a)(i)(A) through (C).

308 (12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as  
309 provided in Subsections (12)(b) through (e).

310 (b) (i) A person who is required by this title or any laws the commission administers or  
311 regulates to register with or obtain a license or permit from the commission, who operates  
312 without having registered or secured a license or permit, or who operates when the registration,  
313 license, or permit is expired or not current, is guilty of a class B misdemeanor.

314 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the  
315 penalty may not:

316 (A) be less than \$500; or

317 (B) exceed \$1,000.

318 (c) (i) [~~A person who, with intent to evade a tax, fee, or charge or requirement of this~~  
319 ~~title or any lawful requirement of the commission,]~~ With respect to a tax, fee, or charge, a  
320 person who knowingly and intentionally ~~Ŝ→~~ , and without a ~~Ĥ→~~ reasonable ~~←Ĥ~~ good faith  
320a1 basis, ~~←Ŝ~~ fails to make,

320a render, sign, or verify a return ~~Ŝ→~~ within the time required by law ~~←Ŝ~~ or to

321 supply information within the time required by law, or who makes, renders, signs, or verifies a  
322 false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty  
323 of a third degree felony.

324 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the  
325 penalty may not:

326 (A) be less than \$1,000; or

327 (B) exceed \$5,000.

328 (d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or  
329 charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law,  
330 guilty of a second degree felony.

331 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the  
332 penalty may not:

333 (A) be less than \$1,500; or

334 (B) exceed \$25,000.

335 (e) (i) A person is guilty of a second degree felony if that person commits an act:

336 (A) described in Subsection (12)(e)(ii) with respect to one or more of the following  
337 documents:

- 338 (I) a return;
- 339 (II) an affidavit;
- 340 (III) a claim; or
- 341 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and
- 342 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in
- 343 Subsection (12)(e)(i)(A):
- 344 (I) is false or fraudulent as to any material matter; and
- 345 (II) could be used in connection with any material matter administered by the
- 346 commission.
- 347 (ii) The following acts apply to Subsection (12)(e)(i):
- 348 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);
- 349 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);
- 350 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
- 351 (D) advising in the preparation or presentation of any portion of a document described
- 352 in Subsection (12)(e)(i)(A);
- 353 (E) aiding in the preparation or presentation of any portion of a document described in
- 354 Subsection (12)(e)(i)(A);
- 355 (F) assisting in the preparation or presentation of any portion of a document described
- 356 in Subsection (12)(e)(i)(A); or
- 357 (G) counseling in the preparation or presentation of any portion of a document
- 358 described in Subsection (12)(e)(i)(A).
- 359 (iii) This Subsection (12)(e) applies:
- 360 (A) regardless of whether the person for which the document described in Subsection
- 361 (12)(e)(i)(A) is prepared or presented:
- 362 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
- 363 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
- 364 (B) in addition to any other penalty provided by law.
- 365 (iv) Notwithstanding Section [76-3-301](#), for purposes of this Subsection (12)(e), the
- 366 penalty may not:
- 367 (A) be less than \$1,500; or
- 368 (B) exceed \$25,000.

369 (v) The commission may seek a court order to enjoin a person from engaging in  
370 conduct that is subject to a penalty under this Subsection (12)(e).

371 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
372 the commission may make rules prescribing the documents that are similar to Subsections  
373 (12)(e)(i)(A)(I) through (III).

374 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is  
375 the later of six years:

376 (i) from the date the tax should have been remitted; or

377 (ii) after the day on which the person commits the criminal offense.

378 (13) Upon making a record of its actions, and upon reasonable cause shown, the  
379 commission may waive, reduce, or compromise any of the penalties or interest imposed under  
380 this part.

381 Section 2. Section **76-8-1101** is amended to read:

382 **76-8-1101. Criminal offenses and penalties relating to revenue and taxation --**  
383 **Rulemaking authority -- Statute of limitations.**

384 (1) (a) As provided in Section **59-1-401**, criminal offenses and penalties are as  
385 provided in Subsections (1)(b) through (e).

386 (b) (i) Any person who is required by Title 59, Revenue and Taxation, or any laws the  
387 State Tax Commission administers or regulates to register with or obtain a license or permit  
388 from the State Tax Commission, who operates without having registered or secured a license or  
389 permit, or who operates when the registration, license, or permit is expired or not current, is  
390 guilty of a class B misdemeanor.

391 (ii) Notwithstanding Section **76-3-301**, for purposes of Subsection (1)(b)(i), the  
392 penalty may not:

393 (A) be less than \$500; or

394 (B) exceed \$1,000.

395 (c) (i) [~~Any person who, with intent to evade any tax, fee, or charge as defined in~~  
396 ~~Section **59-1-401** or requirement of Title 59, Revenue and Taxation, or any lawful requirement~~  
397 ~~of the State Tax Commission;] With respect to a tax, fee, or charge as defined in Section  
398 **59-1-401**, any person who knowingly and intentionally ~~Œ→~~, and without a ~~Ĥ→~~ reasonable ~~←Ĥ~~  
398a1 good faith basis, ~~←Œ~~~~

398a fails to make, render, sign, or verify any

399 return ~~Œ→~~ within the time required by law ~~←Œ~~ or to supply any information within the time

399a required by law, or who makes, renders,

400 signs, or verifies any false or fraudulent return or statement, or who supplies any false or  
401 fraudulent information, is guilty of a third degree felony.

402 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(c)(i), the penalty  
403 may not:

404 (A) be less than \$1,000; or

405 (B) exceed \$5,000.

406 (d) (i) Any person who intentionally or willfully attempts to evade or defeat any tax,  
407 fee, or charge as defined in Section 59-1-401 or the payment of a tax, fee, or charge as defined  
408 in Section 59-1-401 is, in addition to other penalties provided by law, guilty of a second degree  
409 felony.

410 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (1)(d)(i), the penalty  
411 may not:

412 (A) be less than \$1,500; or

413 (B) exceed \$25,000.

414 (e) (i) A person is guilty of a second degree felony if that person commits an act:

415 (A) described in Subsection (1)(e)(ii) with respect to one or more of the following

416 documents:

417 (I) a return;

418 (II) an affidavit;

419 (III) a claim; or

420 (IV) a document similar to Subsections (1)(e)(i)(A)(I) through (III); and

421 (B) subject to Subsection (1)(e)(iii), with knowledge that the document described in

422 Subsection (1)(e)(i)(A):

423 (I) is false or fraudulent as to any material matter; and

424 (II) could be used in connection with any material matter administered by the State Tax  
425 Commission.

426 (ii) The following acts apply to Subsection (1)(e)(i):

427 (A) preparing any portion of a document described in Subsection (1)(e)(i)(A);

428 (B) presenting any portion of a document described in Subsection (1)(e)(i)(A);

429 (C) procuring any portion of a document described in Subsection (1)(e)(i)(A);

430 (D) advising in the preparation or presentation of any portion of a document described

431 in Subsection (1)(e)(i)(A);  
432 (E) aiding in the preparation or presentation of any portion of a document described in  
433 Subsection (1)(e)(i)(A);  
434 (F) assisting in the preparation or presentation of any portion of a document described  
435 in Subsection (1)(e)(i)(A); or  
436 (G) counseling in the preparation or presentation of any portion of a document  
437 described in Subsection (1)(e)(i)(A).  
438 (iii) This Subsection (1)(e) applies:  
439 (A) regardless of whether the person for which the document described in Subsection  
440 (1)(e)(i)(A) is prepared or presented:  
441 (I) knew of the falsity of the document described in Subsection (1)(e)(i)(A); or  
442 (II) consented to the falsity of the document described in Subsection (1)(e)(i)(A); and  
443 (B) in addition to any other penalty provided by law.  
444 (iv) Notwithstanding Section [76-3-301](#), for purposes of this Subsection (1)(e), the  
445 penalty may not:  
446 (A) be less than \$1,500; or  
447 (B) exceed \$25,000.  
448 (v) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
449 State Tax Commission may make rules prescribing the documents that are similar to  
450 Subsections (1)(e)(i)(A)(I) through (III).  
451 (2) The statute of limitations for prosecution for a violation of this section is the later  
452 of six years:  
453 (a) from the date the tax should have been remitted; or  
454 (b) after the day on which the person commits the criminal offense.

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**Legislative Review Note**  
**as of 2-18-14 2:39 PM**

**Office of Legislative Research and General Counsel**