

INCOME TAX REVISIONS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill amends provisions related to income taxes.

Highlighted Provisions:

This bill:

- ▶ addresses income tax penalties;
- ▶ addresses filing requirements for income tax forms ~~§~~ **and returns** ~~§~~ ;
- ▶ addresses the time period for the State Tax Commission to issue an individual income tax refund; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-1-401, as last amended by Laws of Utah 2014, Chapter 52

59-10-406, as last amended by Laws of Utah 2006, Chapter 10

ENACTS:

59-10-529.1, Utah Code Annotated 1953



245 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
 246 or is a seller required to pay or collect and remit sales and use taxes under Subsection
 247 59-12-107(2)(b); and

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

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

251 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a)
 252 or is a seller required to pay or collect and remit sales and use taxes under Subsection
 253 59-12-107(2)(b); and

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

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

259 (8) ~~§~~ **→ [The] (a) Subject to ~~H~~ → [Subsection (8)(b)] Subsections (8)(b) and (c) ← ~~H~~ ,**
 259a **the ← ~~§~~** penalty for failure to file an
 259a information return, information report, or a
 260 complete supporting schedule is \$50 for each information return, information report, or
 261 supporting schedule up to a maximum of \$1,000.

261a **→ (b) If an employer is subject to a penalty under Subsection (13), the employer may not be**
 261b **subject to a penalty under Subsection (8)(a). ← ~~§~~**

261c **→ (c) If an employer is subject to a penalty under this Subsection (8) for failure to file a**
 261d **return in accordance with Subsection 59-10-406(3) on or before the due date described in**
 261e **Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection**
 261f **(8) unless the return is filed more than 14 days after the due date described in**
 261g **Subsection 59-10-406(3)(b)(ii). ← ~~H~~**

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

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

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

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

370 (B) exceed \$25,000.

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

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

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

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

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

380 (13) (a) ~~H~~→ [An] Subject to Subsection (13)(b), an ←H employer that is required to
380a file a form with the commission in accordance
381 with Subsection 59-10-406(8) is subject to a penalty described in Subsection (13)(b) if the
382 employer:

383 (i) fails to file the form with the commission in an electronic format approved by the
384 commission as required by Subsection 59-10-406(8);

385 (ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8);

386 (iii) fails to provide accurate information on the form; or

387 (iv) fails to provide all of the information required by the Internal Revenue Service to
388 be contained on the form.

389 (b) For purposes of Subsection (13)(a), the penalty is:

390 (i) \$30 per form, not to exceed \$75,000 in a calendar year, if the employer files the
391 form in accordance with Subsection 59-10-406(8), ~~H~~→ **more than 14 days after the due date**
391a **provided in Subsection 59-10-406(8) but ←H** no later than 30 days after the due date
392 provided in Subsection 59-10-406(8);

393 (ii) \$60 per form, not to exceed \$200,000 in a calendar year, if the employer files the
394 form in accordance with Subsection 59-10-406(8), more than 30 days after the due date
395 provided in Subsection 59-10-406(8) but on or before June 1; or

396 (iii) \$100 per form, not to exceed \$500,000 in a calendar year, if the employer:

397 (A) files the form in accordance with Subsection 59-10-406(8) after June 1; or

398 (B) fails to file the form.

399 [~~13~~] (14) Upon making a record of its actions, and upon reasonable cause shown, the

400 commission may waive, reduce, or compromise any of the penalties or interest imposed under
401 this part.

402 Section 2. Section **59-10-406** is amended to read:

403 **59-10-406. Collection and payment of tax -- Forms filed electronically.**

404 (1) (a) Each employer shall, on or before the last day of April, July, October, and
405 January, pay to the commission the amount required to be deducted and withheld from wages
406 paid to any employee during the preceding calendar quarter under this part.

407 (b) The commission may change the time or period for making reports and payments
408 if:

409 (i) in its opinion, the tax is in jeopardy; or

410 (ii) a different time or period will facilitate the collection and payment of the tax by the
411 employer.

412 (2) Each employer shall file a return, in a form the commission prescribes, with each
413 payment of the amount deducted and withheld under this part showing:

414 (a) the total amount of wages paid to his employees;

415 (b) the amount of federal income tax deducted and withheld;

416 (c) the amount of tax under this part deducted and withheld; and

417 (d) any other information the commission may require.

418 (3) (a) Each employer shall file an annual return, in a form the commission prescribes,
419 summarizing:

420 (i) the total compensation paid;

421 (ii) the federal income tax deducted and withheld; and

422 (iii) the state tax deducted and withheld for each employee during the calendar year.

423 (b) ~~§~~ **→** [(i) ~~Except as provided in Subsection (3)(b)(ii), the~~] **The** ~~←~~ **§** return required by
423a Subsection

424 (3)(a) shall be filed with the commission ~~§~~ **→** :

424a **(i) in an electronic format approved by the commission; and**

424b **(ii) ←** ~~§~~ on or before ~~§~~ **→** ~~[February 28]~~ **January 31** ~~←~~ ~~§~~ of the year following that for
425 which the report is made.

426 ~~§~~ **→** [(ii) ~~An annual return described in Subsection (3)(a) that is filed electronically shall be~~
427 ~~filed with the commission on or before the date established in Section 6071(b), Internal~~
428 ~~Revenue Code, for filing returns.] ←~~ ~~§~~

429 (4) (a) Each employer shall also, in accordance with rules prescribed by the
430 commission, provide each employee from whom state income tax has been withheld with a