

1 **PASS-THROUGH ENTITY RETURN FILING DATE**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Steve Eliason**

5 Senate Sponsor: Curtis S. Bramble

7 **LONG TITLE**

8 **Committee Note:**

9 The Revenue and Taxation Interim Committee recommended this bill.

10 **General Description:**

11 This bill modifies the date for a pass-through entity to file a tax return.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ modifies the date for a pass-through entity to file a tax return; and
- 15 ▶ makes technical corrections.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 This bill provides retrospective operation.

20 **Utah Code Sections Affected:**

21 **AMENDS:**

22 **59-7-701**, as last amended by Laws of Utah 2009, Chapter 312

23 **59-10-507**, as last amended by Laws of Utah 2009, Chapter 312

24 **59-10-514**, as last amended by Laws of Utah 2008, Chapter 382

25 **59-10-518**, as last amended by Laws of Utah 2007, Chapter 28

26 **59-10-1403**, as last amended by Laws of Utah 2009, Chapter 312



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

29 Section 1. Section **59-7-701** is amended to read:

30 **59-7-701. Taxation of S corporations -- Revenue and Taxation Interim**

31 **Committee study.**

32 (1) Except as provided in Section [59-7-102](#) and subject to the other provisions of this
33 part, beginning on July 1, 1994, and ending on the last day of the taxable year that begins on or
34 after January 1, 2012, but begins on or before December 31, 2012, an S corporation is subject
35 to taxation in the same manner as that S corporation is taxed under Subchapter S - Tax
36 Treatment of S Corporations and Their Shareholders, Sec. 1361 et seq., Internal Revenue Code.

37 (2) An S corporation is taxed at the tax rate provided in Section [59-7-104](#).

38 (3) The business income and nonbusiness income of an S corporation is subject to Part
39 3, Allocation and Apportionment of Income - Utah UDITPA Provisions.

40 (4) An S corporation having income derived from or connected with Utah sources shall
41 make a return in accordance with ~~[Section]~~ Sections [59-10-507](#) and [59-10-514](#).

42 (5) An S corporation shall make payments of estimated tax as required by Section
43 [59-7-504](#).

44 (6) An S corporation is subject to Chapter 10, Part 14, Pass-Through Entities and
45 Pass-Through Entity Taxpayers Act.

46 (7) A pass-through entity taxpayer as defined in Section [59-10-1402](#) of an S
47 corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity
48 Taxpayers Act.

49 (8) Provisions under this chapter governing the following apply to an S corporation:

- 50 (a) an assessment;
- 51 (b) a penalty;
- 52 (c) a refund; or
- 53 (d) a record required for an S corporation.

54 ~~[(9) (a) During the 2011 interim, the Revenue and Taxation Interim Committee shall~~
55 ~~study the fiscal impacts of:]~~

56 ~~[(i) the enactment of Laws of Utah 2009, Chapter 312; and]~~

57 ~~[(ii) the taxation of S corporations under this part.]~~

58 ~~[(b) On or before November 30, 2011, the Revenue and Taxation Interim Committee~~

59 shall report its findings and recommendations on the study to the Executive Appropriations
60 Committee.]

61 Section 2. Section **59-10-507** is amended to read:

62 **59-10-507. Return by a pass-through entity.**

63 (1) As used in this section:

64 (a) "Pass-through entity" is as defined in Section [59-10-1402](#).

65 (b) "Taxable year" means a year or other time period that would be a taxable year of a
66 pass-through entity if the pass-through entity were subject to taxation under this chapter.

67 (2) A pass-through entity having any income derived from or connected with Utah
68 sources shall make a return for the taxable year ~~[as prescribed by the commission]~~ in
69 accordance with Section [59-10-514](#).

70 Section 3. Section **59-10-514** is amended to read:

71 **59-10-514. Return filing requirements -- Rulemaking authority.**

72 (1) Subject to Subsection (3) and Section [59-10-518](#):

73 (a) an individual income tax return filed for a tax imposed in accordance with Part 1,
74 Determination and Reporting of Tax Liability and Information, shall be filed with the
75 commission[:] on or before the day on which a federal individual income tax return is due
76 under the Internal Revenue Code;

77 ~~[(i) except as provided in Subsection (1)(a)(ii), on or before the 15th day of the fourth~~
78 ~~month following the last day of the taxpayer's taxable year; or]~~

79 ~~[(ii) on or before the day on which a federal individual income tax return is due under~~
80 ~~the Internal Revenue Code if the Internal Revenue Code provides a due date for filing that~~
81 ~~federal individual income tax return that is different from the due date described in Subsection~~
82 ~~(1)(a)(i);]~~

83 (b) a fiduciary income tax return filed for a tax imposed in accordance with Part 2,
84 Trusts and Estates, shall be filed with the commission[:] on or before the day on which a
85 federal return for estates and trusts is due under the Internal Revenue Code; or

86 ~~[(i) except as provided in Subsection (1)(b)(ii), on or before the 15th day of the fourth~~
87 ~~month following the last day of the taxpayer's taxable year; or]~~

88 ~~[(ii) on or before the day on which a federal tax return for estates and trusts is due~~
89 ~~under the Internal Revenue Code if the Internal Revenue Code provides a due date for filing~~

90 ~~that federal tax return for estates and trusts that is different from the due date described in~~
 91 ~~Subsection (1)(b)(i); or]~~

92 (c) a return filed in accordance with Section 59-10-507[;] shall be filed with the
 93 commission[;] on or before the 15th day of the fourth month following the last day of the
 94 taxpayer's taxable year.

95 [~~i) except as provided in Subsection (1)(c)(ii), in accordance with Section 59-10-507;~~
 96 ~~or]~~

97 [~~ii) on or before the day on which a federal return of partnership income is due under~~
 98 ~~the Internal Revenue Code if the Internal Revenue Code provides a due date for filing that~~
 99 ~~federal return of partnership income that is different from the due date described in Subsection~~
 100 ~~(1)(c)(i);]~~

101 (2) A person required to make and file a return under this chapter shall, without
 102 assessment, notice, or demand, pay any tax due:

103 (a) to the commission; and

104 (b) before the due date for filing the return [~~determined~~], without regard to any
 105 extension of time for filing the return.

106 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 107 commission may make rules ~~Ĥ~~→ [Ĥ] **prescribing** [Ĥ] [~~describing~~] ←Ĥ what constitutes filing
 107a a return with the
 108 commission.

109 Section 4. Section 59-10-518 is amended to read:

110 **59-10-518. Time for performance of acts when last day falls on Saturday,**
 111 **Sunday, or legal holiday.**

112 (1) As used in this section, "legal holiday" means a legal holiday in this state.

113 (2) [~~Subject to Section 59-10-514, if~~] If the last day prescribed under authority of this
 114 chapter for performing any act falls on Saturday, Sunday, or a legal holiday, the performance of
 115 the act shall be considered to be timely if it is performed on the next succeeding day which is
 116 not a Saturday, Sunday, or a legal holiday.

117 (3) For purposes of this section, the last day for the performance of any act shall be
 118 determined by including any authorized extension of time.

119 Section 5. Section 59-10-1403 is amended to read:

120 **59-10-1403. Income tax treatment of a pass-through entity -- Returns --**

121 **Classification same as under Internal Revenue Code.**

122 (1) Subject to Subsection (3), a pass-through entity is not subject to a tax imposed by
123 this chapter.

124 (2) The income, gain, loss, deduction, or credit of a pass-through entity shall be passed
125 through to one or more pass-through entity taxpayers as provided in this part.

126 (3) A pass-through entity is subject to the return filing requirements of [~~Section~~]
127 Sections 59-10-507 and 59-10-514.

128 (4) A pass-through entity that transacts business in the state shall be classified for
129 purposes of taxation under this title in the same manner as the pass-through entity is classified
130 for federal income tax purposes.

131 **Section 6. Retrospective operation.**

132 This bill has retrospective operation for a taxable year beginning on or after January 1,
133 2016.

Legislative Review Note
Office of Legislative Research and General Counsel