

PASS-THROUGH ENTITY RETURN FILING DATE

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

59-7-701. Taxation of S corporations.

(1) Except as provided in Section **59-7-102** and subject to the other provisions of this

30 part, beginning on July 1, 1994, and ending on the last day of the taxable year that begins on or
31 after January 1, 2012, but begins on or before December 31, 2012, an S corporation is subject
32 to taxation in the same manner as that S corporation is taxed under Subchapter S - Tax
33 Treatment of S Corporations and Their Shareholders, Sec. 1361 et seq., Internal Revenue Code.

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

35 (3) The business income and nonbusiness income of an S corporation is subject to Part
36 3, Allocation and Apportionment of Income - Utah UDITPA Provisions.

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

39 (5) An S corporation shall make payments of estimated tax as required by Section
40 59-7-504.

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

43 (7) A pass-through entity taxpayer as defined in Section 59-10-1402 of an S
44 corporation is subject to Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity
45 Taxpayers Act.

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

47 (a) an assessment;

48 (b) a penalty;

49 (c) a refund; or

50 (d) a record required for an S corporation.

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

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

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

55 ~~[(b) On or before November 30, 2011, the Revenue and Taxation Interim Committee~~
56 ~~shall report its findings and recommendations on the study to the Executive Appropriations~~
57 ~~Committee.]~~

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

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

60 (1) As used in this section:

61 (a) "Pass-through entity" is as defined in Section **59-10-1402**.

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

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

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

68 **59-10-514. Return filing requirements -- Rulemaking authority.**

69 (1) Subject to Subsection (3) and Section **59-10-518**:

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

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

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

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

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

85 ~~[(ii) on or before the day on which a federal tax return for estates and trusts is due~~

86 ~~under the Internal Revenue Code if the Internal Revenue Code provides a due date for filing~~
87 ~~that federal tax return for estates and trusts that is different from the due date described in~~
88 ~~Subsection (1)(b)(i); or]~~

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

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

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

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

100 (a) to the commission; and

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

103 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
104 commission may make rules prescribing what constitutes filing a return with the commission.

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

106 **59-10-518. Time for performance of acts when last day falls on Saturday,**
107 **Sunday, or legal holiday.**

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

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

113 (3) For purposes of this section, the last day for the performance of any act shall be

114 determined by including any authorized extension of time.

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

116 **59-10-1403. Income tax treatment of a pass-through entity -- Returns --**

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

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

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

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

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

127 Section 6. **Retrospective operation.**

128 This bill has retrospective operation for a taxable year beginning on or after January 1,
129 2016.