

SB0249S01 compared with SB0249

~~deleted text~~ shows text that was in SB0249 but was deleted in SB0249S01.

Inserted text shows text that was not in SB0249 but was inserted into SB0249S01.

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Senator Curtis S. Bramble proposes the following substitute bill:

TAX ~~E-FILING~~ E-FILING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the format that is required for filing certain income tax withholding statements.

Highlighted Provisions:

This bill:

- ▶ requires ~~an employer~~ a producer to file a quarterly mineral production withholding return in an electronic format; and
- ▶ requires an employer to file a ~~monthly withholding prepayment form~~ quarterly withholding return in an electronic format.

Money Appropriated in this Bill:

None

Other Special Clauses:

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~~{ None }~~ This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-6-103, as last amended by Laws of Utah 2008, Chapter 255

59-10-406, as last amended by Laws of Utah 2015, Chapter 369

~~{ 59-10-407, as last amended by Laws of Utah 2009, Chapter 33 }~~

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

Section 1. Section 59-6-103 is amended to read:

59-6-103. Returns and payments required of producers.

(1) (a) Subject to Subsection (1)(b), a producer required to deduct and withhold an amount under this chapter shall file a withholding return with the commission:

(i) for the amounts required to be deducted and withheld under this chapter during the preceding calendar quarter; and

(ii) ~~[on a form]~~ in an electronic format prescribed by the commission.

(b) A withholding return described in Subsection (1)(a) is due on or before the last day of April, July, October, and January.

(c) A withholding return described in Subsection (1)(a) shall contain:

(i) the name and address of each person receiving a payment subject to the deduction and withholding requirements of this chapter for the calendar quarter for which the withholding return is filed;

(ii) for each person described in Subsection (1)(c)(i), the amount of payment the person would have received from the production of minerals ~~[-]~~

~~[-]~~ (A) [-] by the producer had the deduction and withholding required by this chapter not been made ~~[-]~~ and ~~[-]~~

~~[-]~~ (B) [-] for the calendar quarter for which the withholding return is filed;

(iii) for each person described in Subsection (1)(c)(i), the amount of deduction and withholding under this chapter for the calendar quarter for which the withholding return is filed;

(iv) the name or description of the property from which the production of minerals occurs that results in a payment subject to deduction and withholding under this chapter; and

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(v) for each person described in Subsection (1)(c)(i), the interest of the person in the production of minerals that results in a payment subject to deduction and withholding under this chapter.

(2) (a) If a producer receives an exemption certificate filed in accordance with Section 59-6-102.1 from a business entity, the producer shall file a withholding return with the commission:

(i) on a form prescribed by the commission; and

(ii) on or before the January 31 following the last day of the taxable year for which the producer receives the exemption certificate from the business entity.

(b) The withholding return required by Subsection (2)(a) shall contain:

(i) the name and address of the business entity that files the exemption certificate in accordance with Section 59-6-102.1;

(ii) the amount of the payment made by the producer to the business entity that would have been subject to deduction and withholding under this chapter had the business entity not filed the exemption certificate in accordance with Section 59-6-102.1;

(iii) the name or description of the property from which the production of minerals occurs that would have resulted in a payment subject to deduction and withholding under this chapter had the business entity not filed the exemption certificate in accordance with Section 59-6-102.1; and

(iv) the interest of the business entity in the production of minerals that would have resulted in a payment subject to deduction and withholding under this chapter had the business entity not filed the exemption certificate in accordance with Section 59-6-102.1.

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

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

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

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

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

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

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employer.

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

- ~~[(a)]~~ (i) the total amount of wages paid to his employees;
- ~~[(b)]~~ (ii) the amount of federal income tax deducted and withheld;
- ~~[(c)]~~ (iii) the amount of tax under this part deducted and withheld; and
- ~~[(d)]~~ (iv) any other information the commission may require.

(b) The employer shall file the return described in Subsection (2)(a) in an electronic format approved by the commission.

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

- (i) the total compensation paid;
- (ii) the federal income tax deducted and withheld; and
- (iii) the state tax deducted and withheld for each employee during the calendar year.

(b) The return required by Subsection (3)(a) shall be filed with the commission:

- (i) in an electronic format approved by the commission; and
- (ii) on or before January 31 of the year following that for which the report is made.

(4) (a) Each employer shall also, in accordance with rules prescribed by the commission, provide each employee from whom state income tax has been withheld with a statement of the amounts of total compensation paid and the amounts deducted and withheld for that employee during the preceding calendar year in accordance with this part.

(b) The statement shall be made available to each employee described in Subsection (4)(a) on or before January 31 of the year following that for which the report is made.

(5) (a) The employer is liable to the commission for the payment of the tax required to be deducted and withheld under this part.

(b) If an employer pays the tax required to be deducted and withheld under this part:

(i) an employee of the employer is not liable for the amount of any payment described in Subsection (5)(a); and

(ii) the employer is not liable to any person or to any employee for the amount of any such payment described in Subsection (5)(a).

(c) For the purpose of making penal provisions of this title applicable, any amount

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deducted or required to be deducted and remitted to the commission under this part is considered to be the tax of the employer and with respect to such amounts the employer is considered to be the taxpayer.

(6) (a) Each employer that deducts and withholds any amount under this part shall hold the amount in trust for the state for the payment of the amount to the commission in the manner and at the time provided for in this part.

(b) So long as any delinquency continues, the state shall have a lien to secure the payment of any amounts withheld, and not remitted as provided under this section, upon all of the assets of the employer and all property owned or used by the employer in the conduct of the employer's business, including stock-in-trade, business fixtures, and equipment.

(c) The lien described in Subsection (6)(b) shall be prior to any lien of any kind, including existing liens for taxes.

(7) To the extent consistent with this section, the commission may use all the provisions of this chapter relating to records, penalties, interest, deficiencies, redetermination of deficiencies, overpayments, refunds, assessments, and venue to enforce this section.

(8) (a) Subject to Subsections (8)(b) and (c), the commission shall require an employer that issues the following forms for a taxable year to file the forms with the commission in an electronic format approved by the commission:

- (i) a federal Form W-2;
- (ii) a federal Form 1099 filed for purposes of withholding under Section 59-10-404; or
- (iii) a federal form substantially similar to a form described in Subsection (8)(a)(i) or (ii) if designated by the commission in accordance with Subsection (8)(d).

(b) An employer that is required to file a form with the commission in accordance with Subsection (8)(a) shall file the form on or before January 31.

(c) An employer that is required to file a form with the commission in accordance with Subsection (8)(a) shall provide:

- (i) accurate information on the form; and
- (ii) all of the information required by the Internal Revenue Service to be contained on the form.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (8)(a), the commission may designate a federal form as being

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substantially similar to a form described in Subsection (8)(a)(i) or (ii) if:

(i) for purposes of federal individual income taxes a different federal form contains substantially similar information to a form described in Subsection (8)(a)(i) or (ii); or

(ii) the Internal Revenue Service replaces a form described in Subsection (8)(a)(i) or (ii) with a different federal form.

Section ~~{2. Section 59-10-407~~ is amended to read:

~~———— 59-10-407. Withholding tax prepayments.~~

~~———— (1) This section does not apply to an employer filing a withholding tax return for a period under this part other than a quarterly period.~~

~~———— (2) (a) Any employer whose withholding tax liability under Section 59-10-402 is estimated to average an amount designated by the commission by rule shall make a monthly prepayment of the amount required to be paid by Section 59-10-406 for each monthly period of each quarterly period.~~

~~———— (b) An employer that makes a monthly prepayment described in this Subsection (2) shall make the monthly prepayment as provided in this section until the commission notifies the employer in writing.~~

~~———— (c) (i) An employer shall file a form with a monthly prepayment.~~

~~———— (ii) The commission shall prescribe and furnish the form described in Subsection (2)(c)(i).~~

~~———— (iii) An employer shall make a monthly prepayment and file the form described in Subsection (2)(c)(i) on or before the last day of the month after the end of each monthly period of each quarterly period.~~

~~———— (iv) An employer shall file the form described in Subsection (2)(c)(i) in an electronic format approved by the commission.~~

~~———— (3) In determining whether an employer's estimated withholding tax liability will average an amount that requires a monthly prepayment, the commission may consider:~~

~~———— (a) a return filed pursuant to Section 59-10-406; or~~

~~———— (b) information in the commission's possession or that may come into the commission's possession.~~

~~———— (4) The penalties and interest for failure to make a monthly prepayment and file the form described in Subsection (2)(c)(i) by the due date described in Subsection (2)(c)(iii) are the~~

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~~same as the penalties and interest under Sections 59-1-401 and 59-1-402 relating to payment of a tax, fee, or charge or filing a return.~~

Legislative Review Note

~~Office of Legislative Research and General Counsel;~~ **3. Effective date.**

This bill takes effect on January 1, 2018.