

**TAX CHANGES**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Travis M. Seegmiller**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Corporate Franchise and Income Taxes code and the Individual Income Tax Act by amending provisions relating to certain income tax rates and tax credit calculations.

**Highlighted Provisions:**

This bill:

- ▶ amends the corporate franchise and income tax rate and the individual income tax rate;
- ▶ amends the calculation of certain tax credits to match the applicable income tax rate; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:**

AMENDS:

**59-7-104**, as last amended by Laws of Utah 2018, Chapter 456

**59-7-201**, as last amended by Laws of Utah 2018, Chapter 456

**59-7-610**, as last amended by Laws of Utah 2015, Chapter 283



- 28 [59-7-620](#), as last amended by Laws of Utah 2017, Chapter 222
- 29 [59-10-104](#), as last amended by Laws of Utah 2018, Chapter 456
- 30 [59-10-1007](#), as last amended by Laws of Utah 2015, Chapter 283
- 31 [59-10-1017](#), as last amended by Laws of Utah 2017, Chapter 389
- 32 [59-10-1017.1](#), as enacted by Laws of Utah 2017, Chapter 389
- 33 [59-10-1022](#), as enacted by Laws of Utah 2008, Chapter 389
- 34 [59-10-1023](#), as enacted by Laws of Utah 2008, Chapter 389
- 35 [59-10-1028](#), as last amended by Laws of Utah 2012, Chapter 399
- 36 [59-10-1035](#), as last amended by Laws of Utah 2017, Chapter 222
- 37 [59-10-1036](#), as enacted by Laws of Utah 2016, Chapter 55



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

40 Section 1. Section **59-7-104** is amended to read:

41 **59-7-104. Tax -- Minimum tax.**

42 (1) Each domestic and foreign corporation, except a corporation that is exempt under  
43 Section [59-7-102](#), shall pay an annual tax to the state based on the corporation's Utah taxable  
44 income for the taxable year for the privilege of exercising the corporation's corporate franchise  
45 or for the privilege of doing business in the state.

46 (2) The tax shall be [~~4.95%~~] 4.75% of a corporation's Utah taxable income.

47 (3) The minimum tax a corporation shall pay under this chapter is \$100.

48 Section 2. Section **59-7-201** is amended to read:

49 **59-7-201. Tax -- Minimum tax.**

50 (1) There is imposed upon each corporation, except a corporation that is exempt under  
51 Section [59-7-102](#), a tax upon the corporation's Utah taxable income for the taxable year that is  
52 derived from sources within this state other than income for any period that the corporation is  
53 required to include in the corporation's tax base under Section [59-7-104](#).

54 (2) The tax imposed by Subsection (1) shall be [~~4.95%~~] 4.75% of a corporation's Utah  
55 taxable income.

56 (3) In no case shall the tax be less than \$100.

57 Section 3. Section **59-7-610** is amended to read:

58 **59-7-610. Recycling market development zones tax credit.**

59 (1) For taxable years beginning on or after January 1, 1996, a business operating in a  
60 recycling market development zone as defined in Section 63N-2-402 may claim a tax credit as  
61 provided in this section.

62 (a) (i) There shall be allowed a nonrefundable tax credit of [~~5%~~] 4.75% of the purchase  
63 price paid for machinery and equipment used directly in:

64 (A) commercial composting; or

65 (B) manufacturing facilities or plant units that:

66 (I) manufacture, process, compound, or produce recycled items of tangible personal  
67 property for sale; or

68 (II) reduce or reuse postconsumer waste material.

69 (ii) The Governor's Office of Economic Development shall certify that the machinery  
70 and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling  
71 process:

72 (A) on a form provided by the commission; and

73 (B) before a taxpayer is allowed a tax credit under this section.

74 (iii) The Governor's Office of Economic Development shall provide a taxpayer seeking  
75 to claim a tax credit under this section with a copy of the form described in Subsection  
76 (1)(a)(ii).

77 (iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form  
78 received under Subsection (1)(a)(iii).

79 (b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures  
80 up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made  
81 by the taxpayer for establishing and operating recycling or composting technology in Utah,  
82 with an annual maximum tax credit of \$2,000.

83 (2) The total nonrefundable tax credit allowed under this section may not exceed 40%  
84 of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of  
85 purchase prior to claiming the tax credit authorized by this section.

86 (3) (a) Any tax credit not used for the taxable year in which the purchase price on  
87 composting or recycling machinery and equipment was paid may be carried over for credit  
88 against the business' income taxes in the three succeeding taxable years until the total tax credit  
89 amount is used.

90 (b) Tax credits not claimed by a business on the business' state income tax return  
91 within three years are forfeited.

92 (4) The commission shall make rules governing what information shall be filed with  
93 the commission to verify the entitlement to and amount of a tax credit.

94 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after  
95 January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection  
96 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under  
97 Section 63N-2-213.

98 (b) For a taxable year other than a taxable year during which the taxpayer may not  
99 claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim  
100 or carry forward a tax credit described in Subsection (1)(a):

101 (i) if the taxpayer may claim or carry forward the tax credit in accordance with  
102 Subsections (1) and (2); and

103 (ii) subject to Subsections (3) and (4).

104 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January  
105 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year  
106 during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

107 (7) A taxpayer may not claim or carry forward a tax credit available under this section  
108 for a taxable year during which the taxpayer has claimed the targeted business income tax  
109 credit available under Section 63N-2-305.

110 Section 4. Section 59-7-620 is amended to read:

111 **59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better**  
112 **Life Experience Program account.**

113 (1) As used in this section:

114 (a) "Account" means an account in a qualified ABLE program where the designated  
115 beneficiary of the account is a resident of this state.

116 (b) "Contributor" means a corporation that:

117 (i) makes a contribution to an account; and

118 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

119 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.  
120 529A.

121 (d) "Qualified ABLE program" means the same as that term is defined in Section  
122 35A-12-102.

123 (2) A contributor to an account may claim a nonrefundable tax credit as provided in  
124 this section.

125 (3) Subject to the other provisions of this section, the tax credit is equal to the product  
126 of:

127 (a) [~~5%~~] 4.75%; and

128 (b) the total amount of contributions:

129 (i) the contributor makes for the taxable year; and

130 (ii) for which the contributor receives a statement from the qualified ABLE program  
131 itemizing the contributions.

132 (4) A contributor may not claim a tax credit under this section:

133 (a) for an amount of excess contribution to an account that is returned to the  
134 contributor; or

135 (b) with respect to an amount the contributor deducts on a federal income tax return.

136 (5) A tax credit under this section may not be carried forward or carried back.

137 Section 5. Section **59-10-104** is amended to read:

138 **59-10-104. Tax basis -- Tax rate -- Exemption.**

139 (1) A tax is imposed on the state taxable income of a resident individual as provided in  
140 this section.

141 (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the  
142 product of:

143 (a) the resident individual's state taxable income for that taxable year; and

144 (b) [~~4.95%~~] 4.75%.

145 (3) This section does not apply to a resident individual exempt from taxation under  
146 Section 59-10-104.1.

147 Section 6. Section **59-10-1007** is amended to read:

148 **59-10-1007. Recycling market development zones tax credit.**

149 (1) For taxable years beginning on or after January 1, 1996, a claimant, estate, or trust  
150 in a recycling market development zone as defined in Section 63N-2-402 may claim a  
151 nonrefundable tax credit as provided in this section.

152 (a) (i) There shall be allowed a tax credit of [~~5%~~] 4.75% of the purchase price paid for  
153 machinery and equipment used directly in:

154 (A) commercial composting; or

155 (B) manufacturing facilities or plant units that:

156 (I) manufacture, process, compound, or produce recycled items of tangible personal  
157 property for sale; or

158 (II) reduce or reuse postconsumer waste material.

159 (ii) The Governor's Office of Economic Development shall certify that the machinery  
160 and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling  
161 process:

162 (A) on a form provided by the commission; and

163 (B) before a claimant, estate, or trust is allowed a tax credit under this section.

164 (iii) The Governor's Office of Economic Development shall provide a claimant, estate,  
165 or trust seeking to claim a tax credit under this section with a copy of the form described in  
166 Subsection (1)(a)(ii).

167 (iv) The claimant, estate, or trust described in Subsection (1)(a)(iii) shall retain a copy  
168 of the form received under Subsection (1)(a)(iii).

169 (b) There shall be allowed a tax credit equal to 20% of net expenditures up to \$10,000  
170 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the  
171 claimant, estate, or trust for establishing and operating recycling or composting technology in  
172 Utah, with an annual maximum tax credit of \$2,000.

173 (2) The total tax credit allowed under this section may not exceed 40% of the Utah  
174 income tax liability of the claimant, estate, or trust prior to any tax credits in the taxable year of  
175 purchase prior to claiming the tax credit authorized by this section.

176 (3) (a) Any tax credit not used for the taxable year in which the purchase price on  
177 composting or recycling machinery and equipment was paid may be carried forward against the  
178 claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable  
179 years until the total tax credit amount is used.

180 (b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or  
181 trust's tax return under this chapter within three years are forfeited.

182 (4) The commission shall make rules governing what information shall be filed with

183 the commission to verify the entitlement to and amount of a tax credit.

184 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after  
185 January 1, 2001, a claimant, estate, or trust may not claim or carry forward a tax credit  
186 described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust  
187 claims or carries forward a tax credit under Section 63N-2-213.

188 (b) For a taxable year other than a taxable year during which the claimant, estate, or  
189 trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a  
190 claimant, estate, or trust may claim or carry forward a tax credit described in Subsection (1)(a):

191 (i) if the claimant, estate, or trust may claim or carry forward the tax credit in  
192 accordance with Subsections (1) and (2); and

193 (ii) subject to Subsections (3) and (4).

194 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January  
195 1, 2001, a claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in  
196 a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit  
197 under Section 63N-2-213.

198 (7) A claimant, estate, or trust may not claim or carry forward a tax credit available  
199 under this section for a taxable year during which the claimant, estate, or trust has claimed the  
200 targeted business income tax credit available under Section 63N-2-305.

201 Section 7. Section 59-10-1017 is amended to read:

202 **59-10-1017. Utah Educational Savings Plan tax credit.**

203 (1) As used in this section:

204 (a) "Account owner" means the same as that term is defined in Section 53B-8a-102.

205 (b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

206 (c) "Higher education costs" means the same as that term is defined in Section  
207 53B-8a-102.5.

208 (d) "Maximum amount of a qualified investment for the taxable year" means, for a  
209 taxable year, the product of [~~5%~~] 4.75% and:

210 (i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account  
211 owner, if that claimant, estate, or trust is other than husband and wife account owners who file  
212 a single return jointly, the maximum amount of a qualified investment:

213 (A) listed in Subsection 53B-8a-106(1)(e)(ii); and

214 (B) increased or kept for that taxable year in accordance with Subsections  
215 53B-8a-106(1)(f) and (g);

216 (ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account  
217 owners who file a single return jointly, the maximum amount of a qualified investment:

218 (A) listed in Subsection 53B-8a-106(1)(e)(iii); and

219 (B) increased or kept for that taxable year in accordance with Subsections  
220 53B-8a-106(1)(f) and (g); or

221 (iii) for a grantor trust:

222 (A) if the owner of the grantor trust has a single filing status or head of household  
223 filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(i); or

224 (B) if the owner of the grantor trust has a joint filing status as defined in Section  
225 59-10-1018, the amount described in Subsection (1)(d)(ii).

226 (e) "Owner of the grantor trust" means the same as that term is defined in Section  
227 53B-8a-102.5.

228 (f) "Qualified investment" means the same as that term is defined in Section  
229 53B-8a-102.5.

230 (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of  
231 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax  
232 credit equal to the product of:

233 (a) the amount of a qualified investment made:

234 (i) during the taxable year; and

235 (ii) into an account owned by the claimant, estate, or trust; and

236 (b) [~~5%~~] 4.75%.

237 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may  
238 make a qualified investment described in Subsection (2).

239 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit  
240 under this section with respect to any portion of a qualified investment described in Subsection  
241 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal  
242 income tax return.

243 (5) A tax credit under this section may not exceed the maximum amount of a qualified  
244 investment for the taxable year.



245 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry  
246 back the tax credit under this section.

247 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to  
248 the tax credit described in Section 59-10-1017.1.

249 Section 8. Section 59-10-1017.1 is amended to read:

250 **59-10-1017.1. Student Prosperity Savings Program tax credit.**

251 (1) As used in this section, "qualified donation" means an amount donated, in  
252 accordance with Section 53B-8a-203, to the Student Prosperity Savings Program created in  
253 Section 53B-8a-202.

254 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified  
255 donation.

256 (3) The tax credit equals the product of:

257 (a) the qualified donation; and

258 (b) [5%] 4.75%.

259 (4) A claimant, estate, or trust may not claim a tax credit under this section with  
260 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a  
261 federal income tax return.

262 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the  
263 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for  
264 the taxable year in which the claimant, estate, or trust claims the tax credit.

265 (6) A claimant, estate, or trust may claim a tax credit under this section in addition to  
266 the tax credit described in Section 59-10-1017.

267 Section 9. Section 59-10-1022 is amended to read:

268 **59-10-1022. Nonrefundable tax credit for capital gain transactions.**

269 (1) As used in this section:

270 (a) (i) "Capital gain transaction" means a transaction that results in a:

271 (A) short-term capital gain; or

272 (B) long-term capital gain.

273 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
274 commission may by rule define the term "transaction."

275 (b) "Commercial domicile" means the principal place from which the trade or business

276 of a Utah small business corporation is directed or managed.  
277 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.  
278 (d) "Qualifying stock" means stock that is:  
279 (i) (A) common; or  
280 (B) preferred;  
281 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter  
282 3, Utah Administrative Rulemaking Act, originally issued to:  
283 (A) a claimant, estate, or trust; or  
284 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this  
285 section:  
286 (I) was a partner on the day on which the stock was issued; and  
287 (II) remains a partner until the last day of the taxable year for which the claimant,  
288 estate, or trust claims a tax credit under this section; and  
289 (iii) issued:  
290 (A) by a Utah small business corporation;  
291 (B) on or after January 1, 2008; and  
292 (C) for:  
293 (I) money; or  
294 (II) other property, except for stock or securities.  
295 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.  
296 (f) (i) "Utah small business corporation" means a corporation that:  
297 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as  
298 defined in Section 1244(c)(3), Internal Revenue Code;  
299 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section  
300 1244(c)(1)(C), Internal Revenue Code; and  
301 (C) has its commercial domicile in this state.  
302 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.  
303 (iii) The phrase "the date the loss on such stock was sustained" in Sections  
304 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the  
305 taxable year for which the claimant, estate, or trust claims a tax credit under this section."  
306 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust

307 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the  
308 product of:

309 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or  
310 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

311 (b) [~~5%~~] 4.75%.

312 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the  
313 nonrefundable tax credit allowed by Subsection (2) if:

314 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:

315 (i) to purchase qualifying stock in a Utah small business corporation; and

316 (ii) within a 12-month period after the day on which the capital gain transaction occurs;

317 and

318 (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the  
319 claimant, estate, or trust did not have an ownership interest in the Utah small business  
320 corporation that issued the qualifying stock.

321 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under  
322 this section.

323 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
324 commission may make rules:

325 (a) defining the term "gross proceeds"; and

326 (b) prescribing the circumstances under which a claimant, estate, or trust has an  
327 ownership interest in a Utah small business corporation.

328 Section 10. Section **59-10-1023** is amended to read:

329 **59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit**  
330 **plan.**

331 (1) As used in this section:

332 (a) "Claimant with dependents" means a claimant:

333 (i) regardless of the claimant's filing status for purposes of filing a federal individual  
334 income tax return for the taxable year; and

335 (ii) who claims one or more dependents under Section 151, Internal Revenue Code, as  
336 allowed on the claimant's federal individual income tax return for the taxable year.

337 (b) "Eligible insured individual" means:

- 338 (i) the claimant who is insured under a health benefit plan;
- 339 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:
  - 340 (A) the claimant files a single return jointly under this chapter with the claimant's
  - 341 spouse for the taxable year; and
  - 342 (B) the spouse is insured under the health benefit plan described in Subsection
  - 343 (1)(b)(i); or
  - 344 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:
    - 345 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as
    - 346 allowed on the claimant's federal individual income tax return for the taxable year; and
    - 347 (B) the dependent is insured under the health benefit plan described in Subsection
    - 348 (1)(b)(i).
- 349 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under
- 350 a health benefit plan for a taxable year if:
  - 351 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue
  - 352 Code:
    - 353 (A) on the claimant's federal individual income tax return for the taxable year; and
    - 354 (B) with respect to an eligible insured individual;
  - 355 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue
  - 356 Code:
    - 357 (A) on the claimant's federal individual income tax return for the taxable year; and
    - 358 (B) with respect to an eligible insured individual; or
    - 359 (iii) the claimant excludes that amount from gross income under Section 106 or 125,
    - 360 Internal Revenue Code, with respect to an eligible insured individual.
  - 361 (d) (i) "Health benefit plan" is as defined in Section [31A-1-301](#).
  - 362 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the
  - 363 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah
  - 364 Administrative Rulemaking Act.
  - 365 (e) "Joint claimant with no dependents" means a husband and wife who:
    - 366 (i) file a single return jointly under this chapter for the taxable year; and
    - 367 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the
    - 368 husband's and wife's federal individual income tax return for the taxable year.

- 369 (f) "Single claimant with no dependents" means:
- 370 (i) a single individual who:
- 371 (A) files a single federal individual income tax return for the taxable year; and
- 372 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the
- 373 single individual's federal individual income tax return for the taxable year;
- 374 (ii) a head of household:
- 375 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal
- 376 individual income tax return for the taxable year; and
- 377 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the
- 378 head of household's federal individual income tax return for the taxable year; or
- 379 (iii) a married individual who:
- 380 (A) does not file a single federal individual income tax return jointly with that married
- 381 individual's spouse for the taxable year; and
- 382 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that
- 383 married individual's federal individual income tax return for the taxable year.
- 384 (2) Subject to Subsection (3), and except as provided in Subsection (4), for taxable
- 385 years beginning on or after January 1, 2009, a claimant may claim a nonrefundable tax credit
- 386 equal to the product of:
- 387 (a) the difference between:
- 388 (i) the total amount the claimant pays during the taxable year for:
- 389 (A) insurance offered under a health benefit plan; and
- 390 (B) an eligible insured individual; and
- 391 (ii) excluded expenses; and
- 392 (b) [~~5%~~] 4.75%.
- 393 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may
- 394 claim on a return for a taxable year is:
- 395 (a) for a single claimant with no dependents, \$300;
- 396 (b) for a joint claimant with no dependents, \$600; or
- 397 (c) for a claimant with dependents, \$900.
- 398 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to
- 399 participate in insurance offered under a health benefit plan maintained and funded in whole or

400 in part by:

401 (a) the claimant's employer; or

402 (b) another person's employer.

403 (5) A claimant may not carry forward or carry back a tax credit under this section.

404 Section 11. Section **59-10-1028** is amended to read:

405 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**  
406 **exchange of one form of legal tender for another form of legal tender.**

407 (1) As used in this section:

408 (a) "Capital gain transaction" means a transaction that results in a:

409 (i) short-term capital gain; or

410 (ii) long-term capital gain.

411 (b) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

412 (c) "Long-term capital loss" is as defined in Section 1222, Internal Revenue Code.

413 (d) "Net capital gain" means the amount by which the sum of long-term capital gains

414 and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges

415 made for a taxable year of one form of legal tender for another form of legal tender exceeds the

416 sum of long-term capital losses and short-term capital losses on those transactions for that

417 taxable year.

418 (e) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.

419 (f) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

420 (2) Except as provided in Section [59-10-1002.2](#), for taxable years beginning on or after

421 January 1, 2012, a claimant, estate, or trust may claim a nonrefundable tax credit equal to the

422 product of:

423 (a) to the extent a net capital gain is included in taxable income, the amount of the

424 claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made

425 on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of

426 legal tender; and

427 (b) [~~5%~~] 4.75%.

428 (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under

429 this section.

430 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

431 commission may make rules to implement this section.

432 Section 12. Section **59-10-1035** is amended to read:

433 **59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**  
434 **Life Experience Program account.**

435 (1) As used in this section:

436 (a) "Account" means an account in a qualified ABLE program where the designated  
437 beneficiary of the account is a resident of this state.

438 (b) "Contributor" means a claimant, estate, or trust that:

439 (i) makes a contribution to an account; and

440 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

441 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.  
442 529A.

443 (d) "Qualified ABLE program" means the same as that term is defined in Section  
444 [35A-12-102](#).

445 (2) A contributor to an account may claim a nonrefundable tax credit as provided in  
446 this section.

447 (3) Subject to the other provisions of this section, the tax credit is equal to the product  
448 of:

449 (a) [~~5%~~] 4.75%; and

450 (b) the total amount of contributions:

451 (i) the contributor makes for the taxable year; and

452 (ii) for which the contributor receives a statement from the qualified ABLE program  
453 itemizing the contributions.

454 (4) A contributor may not claim a tax credit under this section:

455 (a) for an amount of excess contribution to an account that is returned to the  
456 contributor; or

457 (b) with respect to an amount the contributor deducts on a federal income tax return.

458 (5) A tax credit under this section may not be carried forward or carried back.

459 Section 13. Section **59-10-1036** is amended to read:

460 **59-10-1036. Nonrefundable tax credit for military survivor benefits.**

461 (1) As used in this section:

462 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

463 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.  
464 10101.

465 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

466 (d) "Survivor benefits" means the amount paid by the federal government in  
467 accordance with 10 U.S.C. Secs. 1447 through 1455.

468 (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for  
469 survivor benefits if the benefits are paid due to:

470 (a) the death of a member of the armed forces or reserve components while on active  
471 duty; or

472 (b) the death of a member of the reserve components that results from a  
473 service-connected cause while performing inactive duty training.

474 (3) The tax credit described in Subsection (2) is equal to the product of:

475 (a) the amount of survivor benefits that the surviving spouse or dependent child  
476 received during the taxable year; and

477 (b) [~~5%~~ 4.75%].

478 (4) The tax credit described in Subsection (2):

479 (a) may not be carried forward or carried back; and

480 (b) applies to a taxable year beginning on or after January 1, 2017.

481 Section 14. **Retrospective operation.**

482 This bill has retrospective operation for a taxable year beginning on or after January 1,  
483 2019.