

INCOME TAX REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends provisions of the Individual Income Tax Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies when a pass-through entity may receive an income tax extension without penalty;
- ▶ creates a new subtraction from adjusted gross income for certain distributions from a qualified retirement plan; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-103, as last amended by Laws of Utah 2019, Chapter 323

59-10-114, as last amended by Laws of Utah 2019, Chapter 412

59-10-516, as last amended by Laws of Utah 2010, Chapter 271

59-10-1403, as last amended by Laws of Utah 2017, Chapter 270



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

Section 1. Section **59-10-103** is amended to read:

59-10-103. Definitions.

(1) As used in this chapter:

(a) "Adjusted gross income":

(i) for a resident or nonresident individual, is as defined in Section 62, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 67(e), Internal Revenue Code.

(b) "Corporation" includes:

(i) an association;

(ii) a joint stock company; and

(iii) an insurance company.

(c) "Distributable net income" is as defined in Section 643, Internal Revenue Code.

(d) "Employee" is as defined in Section 59-10-401.

(e) "Employer" is as defined in Section 59-10-401.

(f) "Federal taxable income":

(i) for a resident or nonresident individual, means taxable income as defined by Section 63, Internal Revenue Code; or

(ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and (b), Internal Revenue Code.

(g) "Fiduciary" means:

(i) a guardian;

(ii) a trustee;

(iii) an executor;

(iv) an administrator;

(v) a receiver;

(vi) a conservator; or

(vii) any person acting in any fiduciary capacity for any individual.

(h) "Guaranteed annuity interest" is as defined in 26 C.F.R. Sec. 1.170A-6(c)(2).

59 (i) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the
60 homesteaded land that was held to have been diminished from the Uintah and Ouray
61 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).

62 (j) "Individual" means a natural person and includes aliens and minors.

63 (k) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate
64 all or part of the trust without the consent of a person who has a substantial beneficial interest
65 in the trust and the interest would be adversely affected by the exercise of the settlor's power to
66 revoke or terminate all or part of the trust.

67 (l) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101.

68 (m) "Nonresident individual" means an individual who is not a resident of this state.

69 (n) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a
70 resident estate or trust.

71 (o) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other
72 unincorporated organization:

73 (A) through or by means of which any business, financial operation, or venture is
74 carried on; and

75 (B) which is not, within the meaning of this chapter:

76 (I) a trust;

77 (II) an estate; or

78 (III) a corporation.

79 (ii) "Partnership" does not include any organization not included under the definition of
80 "partnership" in Section 761, Internal Revenue Code.

81 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or
82 organization described in Subsection (1)(o)(i).

83 (p) "Pass-through entity" means the same as that term is defined in Section
84 [59-10-1402](#).

85 (q) "Pass-through entity taxpayer" means the same as that term is defined in Section
86 [59-10-1402](#).

87 ~~(p)~~ (r) "Qualified nongrantor charitable lead trust" means a trust:

88 (i) that is irrevocable;

89 (ii) that has a trust term measured by:

- 90 (A) a fixed term of years; or
- 91 (B) the life of a person living on the day on which the trust is created;
- 92 (iii) under which:
 - 93 (A) a portion of the value of the trust assets is distributed during the trust term:
 - 94 (I) to an organization described in Section 170(c), Internal Revenue Code; and
 - 95 (II) as a:
 - 96 (Aa) guaranteed annuity interest; or
 - 97 (Bb) unitrust interest; and
 - 98 (B) assets remaining in the trust at the termination of the trust term are distributed to a
 - 99 beneficiary:
 - 100 (I) designated in the trust; and
 - 101 (II) that is not an organization described in Section 170(c), Internal Revenue Code;
 - 102 (iv) for which the trust is allowed a deduction under Section 642(c), Internal Revenue
 - 103 Code; and
 - 104 (v) under which the grantor of the trust is not treated as the owner of any portion of the
 - 105 trust for federal income tax purposes.

106 ~~[(q)]~~ (s) "Resident individual" means an individual who is domiciled in this state for
107 any period of time during the taxable year, but only for the duration of the period during which
108 the individual is domiciled in this state.

109 ~~[(r)]~~ (t) "Resident estate" or "resident trust" is as defined in Section 75-7-103.

110 ~~[(s)]~~ (u) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101.

111 ~~[(t)]~~ (v) "State income tax percentage for a nonresident estate or trust" means a
112 percentage equal to a nonresident estate's or trust's state taxable income for the taxable year
113 divided by the nonresident estate's or trust's total adjusted gross income for that taxable year
114 after making the adjustments required by:

- 115 (i) Section 59-10-202;
- 116 (ii) Section 59-10-207;
- 117 (iii) Section 59-10-209.1; or
- 118 (iv) Section 59-10-210.

119 ~~[(u)]~~ (w) "State income tax percentage for a nonresident individual" means a
120 percentage equal to a nonresident individual's state taxable income for the taxable year divided

121 by the difference between:

122 (i) subject to Section 59-10-1405, the nonresident individual's total adjusted gross
123 income for that taxable year, after making the:

124 (A) additions and subtractions required by Section 59-10-114; and

125 (B) adjustments required by Section 59-10-115; and

126 (ii) if the nonresident individual described in Subsection ~~[(1)(u)(i)]~~ (1)(w)(i) is a
127 servicemember, the compensation the servicemember receives for military service if the
128 servicemember is serving in compliance with military orders.

129 ~~[(v)]~~ (x) "State income tax percentage for a part-year resident individual" means, for a
130 taxable year, a fraction:

131 (i) the numerator of which is the sum of:

132 (A) subject to Section 59-10-1404.5, for the time period during the taxable year that the
133 part-year resident individual is a resident, the part-year resident individual's total adjusted gross
134 income for that time period, after making the:

135 (I) additions and subtractions required by Section 59-10-114; and

136 (II) adjustments required by Section 59-10-115; and

137 (B) for the time period during the taxable year that the part-year resident individual is a
138 nonresident, an amount calculated by:

139 (I) determining the part-year resident individual's adjusted gross income for that time
140 period, after making the:

141 (Aa) additions and subtractions required by Section 59-10-114; and

142 (Bb) adjustments required by Section 59-10-115; and

143 (II) calculating the portion of the amount determined under Subsection ~~[(1)(v)(i)(B)(1)]~~
144 (1)(x)(i)(B)(I) that is derived from Utah sources in accordance with Section 59-10-117; and

145 (ii) the denominator of which is the difference between:

146 (A) the part-year resident individual's total adjusted gross income for that taxable year,
147 after making the:

148 (I) additions and subtractions required by Section 59-10-114; and

149 (II) adjustments required by Section 59-10-115; and

150 (B) if the part-year resident individual is a servicemember, any compensation the
151 servicemember receives for military service during the portion of the taxable year that the

152 servicemember is a nonresident if the servicemember is serving in compliance with military
 153 orders.

154 ~~[(w)]~~ (y) "Taxable income" or "state taxable income":

155 (i) subject to Section 59-10-1404.5, for a resident individual, means the resident
 156 individual's adjusted gross income after making the:

157 (A) additions and subtractions required by Section 59-10-114; and

158 (B) adjustments required by Section 59-10-115;

159 (ii) for a nonresident individual, is an amount calculated by:

160 (A) determining the nonresident individual's adjusted gross income for the taxable
 161 year, after making the:

162 (I) additions and subtractions required by Section 59-10-114; and

163 (II) adjustments required by Section 59-10-115; and

164 (B) calculating the portion of the amount determined under Subsection ~~[(1)(w)(ii)(A)]~~
 165 (1)(y)(ii)(A) that is derived from Utah sources in accordance with Section 59-10-117;

166 (iii) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

167 (iv) for a nonresident estate or trust, is as calculated under Section 59-10-204.

168 ~~[(x)]~~ (z) "Taxpayer" means any ~~[individual, estate, trust, or beneficiary of an estate or~~
 169 ~~trust,]~~ of the following that has income subject in whole or part to the tax imposed by this
 170 chapter[-]:

171 (i) an individual;

172 (ii) an estate, a trust, or a beneficiary of an estate or trust, that is not a pass-through
 173 entity or a pass-through entity taxpayer;

174 (iii) a pass-through entity; or

175 (iv) pass-through entity taxpayer.

176 ~~[(y)]~~ (aa) "Trust term" means a time period:

177 (i) beginning on the day on which a qualified nongrantor charitable lead trust is
 178 created; and

179 (ii) ending on the day on which the qualified nongrantor charitable lead trust described
 180 in Subsection ~~[(1)(y)(i)]~~ (1)(aa)(i) terminates.

181 ~~[(z)]~~ (bb) "Uintah and Ouray Reservation" means the lands recognized as being
 182 included within the Uintah and Ouray Reservation in:

- 183 (i) Hagen v. Utah, 510 U.S. 399 (1994); and
184 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).
- 185 [~~(aa)~~] (cc) "Unadjusted income" means an amount equal to the difference between:
186 (i) the total income required to be reported by a resident or nonresident estate or trust
187 on the resident or nonresident estate's or trust's federal income tax return for estates and trusts
188 for the taxable year; and
189 (ii) the sum of the following:
190 (A) fees paid or incurred to the fiduciary of a resident or nonresident estate or trust:
191 (I) for administering the resident or nonresident estate or trust; and
192 (II) that the resident or nonresident estate or trust deducts as allowed on the resident or
193 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
194 year;
195 (B) the income distribution deduction that a resident or nonresident estate or trust
196 deducts under Section 651 or 661, Internal Revenue Code, as allowed on the resident or
197 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
198 year;
199 (C) the amount that a resident or nonresident estate or trust deducts as a deduction for
200 estate tax or generation skipping transfer tax under Section 691(c), Internal Revenue Code, as
201 allowed on the resident or nonresident estate's or trust's federal income tax return for estates
202 and trusts for the taxable year; and
203 (D) the amount that a resident or nonresident estate or trust deducts as a personal
204 exemption under Section 642(b), Internal Revenue Code, as allowed on the resident or
205 nonresident estate's or trust's federal income tax return for estates and trusts for the taxable
206 year.
- 207 [~~(bb)~~] (dd) "Unitrust interest" is as defined in 26 C.F.R. Sec. 1.170A-6(c)(2).
208 [~~(cc)~~] (ee) "Ute tribal member" means a person who is enrolled as a member of the Ute
209 Indian Tribe of the Uintah and Ouray Reservation.
210 [~~(dd)~~] (ff) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.
211 [~~(cc)~~] (gg) "Wages" is as defined in Section [59-10-401](#).
212 (2) (a) Any term used in this chapter has the same meaning as when used in
213 comparable context in the laws of the United States relating to federal income taxes unless a

214 different meaning is clearly required.

215 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall
216 mean the Internal Revenue Code or other provisions of the laws of the United States relating to
217 federal income taxes that are in effect for the taxable year.

218 (c) Any reference to a specific section of the Internal Revenue Code or other provision
219 of the laws of the United States relating to federal income taxes shall include any
220 corresponding or comparable provisions of the Internal Revenue Code as amended,
221 redesignated, or reenacted.

222 Section 2. Section **59-10-114** is amended to read:

223 **59-10-114. Additions to and subtractions from adjusted gross income of an**
224 **individual.**

225 (1) There shall be added to adjusted gross income of a resident or nonresident
226 individual:

227 (a) a lump sum distribution that the taxpayer does not include in adjusted gross income
228 on the taxpayer's federal individual income tax return for the taxable year;

229 (b) the amount of a child's income calculated under Subsection (4) that:

230 (i) a parent elects to report on the parent's federal individual income tax return for the
231 taxable year; and

232 (ii) the parent does not include in adjusted gross income on the parent's federal
233 individual income tax return for the taxable year;

234 (c) (i) a withdrawal from a medical care savings account and any penalty imposed for
235 the taxable year if:

236 (A) the resident or nonresident individual does not deduct the amounts on the resident
237 or nonresident individual's federal individual income tax return under Section 220, Internal
238 Revenue Code;

239 (B) the withdrawal is subject to Subsections [31A-32a-105\(1\)](#) and (2); and

240 (C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a
241 return the resident or nonresident individual files under this chapter;

242 (ii) a disbursement required to be added to adjusted gross income in accordance with
243 Subsection [31A-32a-105\(3\)](#); or

244 (iii) an amount required to be added to adjusted gross income in accordance with

245 Subsection 31A-32a-105(5)(c);

246 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,
247 from the account of a resident or nonresident individual who is an account owner as defined in
248 Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount
249 withdrawn from the account of the resident or nonresident individual who is the account
250 owner:

251 (i) is not expended for:

252 (A) higher education costs as defined in Section 53B-8a-102.5; or

253 (B) a payment or distribution that qualifies as an exception to the additional tax for
254 distributions not used for educational expenses provided in Sections 529(c) and 530(d),
255 Internal Revenue Code; and

256 (ii) is:

257 (A) subtracted by the resident or nonresident individual:

258 (I) who is the account owner; and

259 (II) on the resident or nonresident individual's return filed under this chapter for a
260 taxable year beginning on or before December 31, 2007; or

261 (B) used as the basis for the resident or nonresident individual who is the account
262 owner to claim a tax credit under Section 59-10-1017;

263 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of
264 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other
265 evidences of indebtedness:

266 (i) issued by one or more of the following entities:

267 (A) a state other than this state;

268 (B) the District of Columbia;

269 (C) a political subdivision of a state other than this state; or

270 (D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A)
271 through (C); and

272 (ii) to the extent the interest is not included in adjusted gross income on the taxpayer's
273 federal income tax return for the taxable year;

274 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a
275 resident trust of income that was taxed at the trust level for federal tax purposes, but was

276 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

277 (g) any distribution received by a resident beneficiary of a nonresident trust of
278 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
279 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
280 was not taxed at the trust level by any state, with undistributed distributable net income
281 considered to be distributed from the most recently accumulated undistributed distributable net
282 income; and

283 (h) any adoption expense:

284 (i) for which a resident or nonresident individual receives reimbursement from another
285 person; and

286 (ii) to the extent to which the resident or nonresident individual subtracts that adoption
287 expense:

288 (A) on a return filed under this chapter for a taxable year beginning on or before
289 December 31, 2007; or

290 (B) from federal taxable income on a federal individual income tax return.

291 (2) There shall be subtracted from adjusted gross income of a resident or nonresident
292 individual:

293 (a) the difference between:

294 (i) the interest or a dividend on an obligation or security of the United States or an
295 authority, commission, instrumentality, or possession of the United States, to the extent that
296 interest or dividend is:

297 (A) included in adjusted gross income for federal income tax purposes for the taxable
298 year; and

299 (B) exempt from state income taxes under the laws of the United States; and

300 (ii) any interest on indebtedness incurred or continued to purchase or carry the
301 obligation or security described in Subsection (2)(a)(i);

302 (b) for taxable years beginning on or after January 1, 2000, if the conditions of
303 Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

304 (i) during a time period that the Ute tribal member resides on homesteaded land
305 diminished from the Uintah and Ouray Reservation; and

306 (ii) from a source within the Uintah and Ouray Reservation;

307 (c) an amount received by a resident or nonresident individual or distribution received
308 by a resident or nonresident beneficiary of a resident trust:

309 (i) if that amount or distribution constitutes a refund of taxes imposed by:

310 (A) a state; or

311 (B) the District of Columbia; and

312 (ii) to the extent that amount or distribution is included in adjusted gross income for
313 that taxable year on the federal individual income tax return of the resident or nonresident
314 individual or resident or nonresident beneficiary of a resident trust;

315 (d) the amount of a railroad retirement benefit:

316 (i) paid:

317 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
318 seq.;

319 (B) to a resident or nonresident individual; and

320 (C) for the taxable year; and

321 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on
322 that resident or nonresident individual's federal individual income tax return for that taxable
323 year;

324 (e) an amount:

325 (i) received by an enrolled member of an American Indian tribe; and

326 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
327 part on that amount in accordance with:

328 (A) federal law;

329 (B) a treaty; or

330 (C) a final decision issued by a court of competent jurisdiction;

331 (f) an amount received:

332 (i) for the interest on a bond, note, or other obligation issued by an entity for which
333 state statute provides an exemption of interest on its bonds from state individual income tax;

334 (ii) by a resident or nonresident individual;

335 (iii) for the taxable year; and

336 (iv) to the extent the amount is included in adjusted gross income on the taxpayer's
337 federal income tax return for the taxable year;

338 (g) the amount of all income, including income apportioned to another state, of a
339 nonmilitary spouse of an active duty military member if:

340 (i) both the nonmilitary spouse and the active duty military member are nonresident
341 individuals;

342 (ii) the active duty military member is stationed in Utah;

343 (iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec.
344 4001(a)(2); and

345 (iv) the income is included in adjusted gross income for federal income tax purposes
346 for the taxable year;

347 (h) for a taxable year beginning on or after January 1, 2019, but beginning on or before
348 December 31, 2019, only:

349 (i) the amount of any FDIC premium paid or incurred by the taxpayer that is
350 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
351 Revenue Code, on the taxpayer's 2018 federal income tax return; plus

352 (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is
353 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
354 Revenue Code, for the taxable year; ~~and~~

355 (i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
356 premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income
357 tax purposes under Section 162(r), Internal Revenue Code, for the taxable year[-]; and

358 (j) an amount of a distribution from a qualified retirement plan under Section 401(a),
359 Internal Revenue Code, if:

360 (i) the amount of the distribution is included in adjusted gross income on the resident
361 or nonresident individual's federal individual income tax return for the taxable year; and

362 (ii) for the taxable year when the amount of the distribution was contributed to the
363 qualified retirement plan, the amount of the distribution:

364 (A) was not included in adjusted gross income on the resident or nonresident
365 individual's federal individual income tax return for the taxable year; and

366 (B) was taxed by another state of the United States, the District of Columbia, or a
367 possession of the United States.

368 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

- 369 (i) the taxpayer is a Ute tribal member; and
370 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
371 requirements of this Subsection (3).
- 372 (b) The agreement described in Subsection (3)(a):
373 (i) may not:
374 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
375 (B) provide a subtraction under this section greater than or different from the
376 subtraction described in Subsection (2)(b); or
377 (C) affect the power of the state to establish rates of taxation; and
378 (ii) shall:
379 (A) provide for the implementation of the subtraction described in Subsection (2)(b);
380 (B) be in writing;
381 (C) be signed by:
382 (I) the governor; and
383 (II) the chair of the Business Committee of the Ute tribe;
384 (D) be conditioned on obtaining any approval required by federal law; and
385 (E) state the effective date of the agreement.
- 386 (c) (i) The governor shall report to the commission by no later than February 1 of each
387 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is
388 in effect.
- 389 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the
390 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or
391 after the January 1 following the termination of the agreement.
- 392 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,
393 Utah Administrative Rulemaking Act, the commission may make rules:
394 (i) for determining whether income is derived from a source within the Uintah and
395 Ouray Reservation; and
396 (ii) that are substantially similar to how adjusted gross income derived from Utah
397 sources is determined under Section [59-10-117](#).
- 398 (4) (a) For purposes of this Subsection (4), "Form 8814" means:
399 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's

400 Interest and Dividends; or

401 (ii) (A) a form designated by the commission in accordance with Subsection
402 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal
403 individual income taxes the information contained on 2000 Form 8814 is reported on a form
404 other than Form 8814; and

405 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter
406 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as
407 being substantially similar to 2000 Form 8814 if for purposes of federal individual income
408 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
409 8814.

410 (b) The amount of a child's income added to adjusted gross income under Subsection
411 (1)(b) is equal to the difference between:

412 (i) the lesser of:

413 (A) the base amount specified on Form 8814; and

414 (B) the sum of the following reported on Form 8814:

415 (I) the child's taxable interest;

416 (II) the child's ordinary dividends; and

417 (III) the child's capital gain distributions; and

418 (ii) the amount not taxed that is specified on Form 8814.

419 (5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences
420 of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not
421 be added to adjusted gross income of a resident or nonresident individual if, as annually
422 determined by the commission:

423 (a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the
424 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on
425 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

426 (b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not
427 impose a tax based on income on any part of the bonds, notes, and other evidences of
428 indebtedness of this state:

429 (i) the entity; or

430 (ii) (A) the state in which the entity is located; or

431 (B) the District of Columbia, if the entity is located within the District of Columbia.

432 Section 3. Section **59-10-516** is amended to read:

433 **59-10-516. Filing extension -- Payment of tax -- Penalty -- Foreign residency.**

434 (1) (a) The commission shall allow a taxpayer an extension of time for filing a return.

435 (b) (i) For a return filed by a taxpayer except for a partnership, the extension under
436 Subsection (1)(a) may not exceed six months.

437 (ii) For a return filed by a partnership, the extension under Subsection (1)(a) may not
438 exceed five months.

439 (2) ~~[(a)]~~ Except as provided in Subsection ~~[(2)(b)]~~ (3), the commission may not impose
440 ~~[on a taxpayer]~~ a penalty under Section 59-1-401 on:

441 (a) a pass-through entity during the extension period described under Subsection (1) if
442 the pass-through entity pays, on or before the 15th day of the fourth month following the close
443 of the pass-through entity's taxable year, the tax the pass-through entity pays or withholds on
444 behalf of a pass-through entity taxpayer; or

445 (b) a taxpayer other than a taxpayer described in Subsection (2)(a) during the extension
446 period prescribed under Subsection (1) ~~[a penalty under Section 59-1-401]~~ if the taxpayer pays,
447 on or before the 15th day of the fourth month following the close of the taxpayer's taxable year,
448 the lesser of:

449 (i) 90% of the total tax reported on the return for the current taxable year; or

450 (ii) 100% of the total tax liability for the taxable year immediately preceding the
451 current taxable year.

452 ~~[(b)]~~ (3) If a taxpayer fails to meet the requirements of Subsection (2)~~[(a)]~~, the
453 commission may apply to the total balance due a penalty as provided in Section 59-1-401.

454 ~~[(3)]~~ (4) If a federal income tax return filing is lawfully delayed pending a
455 determination of qualification for a federal tax exemption due to residency outside of the
456 United States, a taxpayer shall file a return within 30 days after that determination is made.

457 Section 4. Section **59-10-1403** is amended to read:

458 **59-10-1403. Income tax treatment of a pass-through entity -- Returns --**
459 **Classification same as under Internal Revenue Code.**

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

462 (2) Except as provided in Section [59-10-1403.3](#), the income, gain, loss, deduction, or
463 credit of a pass-through entity shall be passed through to one or more pass-through entity
464 taxpayers as provided in this part.

465 (3) A pass-through entity is subject to the return filing requirements of Sections
466 [59-10-507](#) [~~and~~], [59-10-514](#), and [59-10-516](#).

467 (4) For purposes of taxation under this title, a pass-through entity that transacts
468 business in the state shall be classified in the same manner as the pass-through entity is
469 classified for federal income tax purposes.

470 Section 5. **Retrospective operation.**

471 This bill has retrospective operation for a taxable year beginning on or after January 1,
472 2020.