

INCOME TAX REVISIONS

2020 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Robert M. Spendlove

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies income tax provisions.

Highlighted Provisions:

This bill:

- ▶ modifies the due date for an installment payment of the tax on deferred foreign income;
- ▶ modifies the payment of the corporate estimated income tax due dates;
- ▶ modifies the corporate and individual return filing dates, extension dates and periods, and the return and extension requirements;
- ▶ provides for when interest accrues on a late payment;
- ▶ adds and modifies definitions;
- ▶ creates a subtraction from adjusted gross income for certain distributions from a qualified retirement plan; and
- ▶ provides the circumstances under which the State Tax Commission shall extend the time to pay an income tax for the 2019 taxable year.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.



Utah Code Sections Affected:

ENACTS:

[59-7-118.1](#), Utah Code Annotated 1953
[59-7-504.1](#), Utah Code Annotated 1953
[59-7-505.1](#), Utah Code Annotated 1953
[59-7-507.1](#), Utah Code Annotated 1953
[59-10-103.2](#), Utah Code Annotated 1953
[59-10-114.1](#), Utah Code Annotated 1953
[59-10-514.2](#), Utah Code Annotated 1953
[59-10-516.1](#), Utah Code Annotated 1953
[59-10-522.1](#), Utah Code Annotated 1953
[59-10-1403.4](#), Utah Code Annotated 1953

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

Section 1. Section [59-7-118.1](#) is enacted to read:

59-7-118.1. Modification of installment due date for deferred foreign income tax.

(1) The Legislature intends that:

(a) Subsection (2) replace Subsection [59-7-118\(3\)\(b\)](#); and

(b) the remaining subsections of Section [59-7-118](#) apply as written.

(2) A corporation shall make:

(a) the first installment of a tax described in Section [59-7-118](#) on or before the due date of the tax return filed under this chapter for the first taxable year in which the corporation reports deferred foreign income described in Section 965, Internal Revenue Code; and

(b) a subsequent installment of a tax described in Section [59-7-118](#) on or before the due date of the tax return filed under this chapter in each of the following seven years.

(3) This section supersedes any conflicting provisions of Utah law.

Section 2. Section [59-7-504.1](#) is enacted to read:

59-7-504.1. Modification of estimated payment due date.

(1) The Legislature intends that:

(a) Subsection (2) replace Subsection [59-7-504\(1\)](#);

(b) Subsection (3) replace Subsection [59-7-504\(2\)](#); and

(c) the remaining subsections of Section [59-7-504](#) apply as written.

(2) Except as provided in Subsection (3), a corporation subject to taxation under this chapter that has a tax liability of \$3,000 or more in either the current taxable year or the previous taxable year shall make a payment of an estimated tax on or before the day on which the corporation is required to make a payment of an estimated tax for the same time period to the federal government.

(3) The provisions of Section 6655, Internal Revenue Code, shall govern the payment described in Subsection (2), except that:

(a) for the first year that a corporation is required to file a return in Utah, the corporation is not subject to Subsection (2) if the corporation makes a payment on or before the due date of the return, without extensions, equal to or greater than the minimum tax required under Section [59-7-104](#) or [59-7-201](#);

(b) the applicable percentage of the required annual payment, as defined in Section 6655, Internal Revenue Code, for annualized income installments, adjusted seasonal installments, and those estimated tax payments based on the current year tax liability shall be:

<u>Installment</u>	<u>Percentage</u>
<u>1st</u>	<u>22.5</u>
<u>2nd</u>	<u>45.0</u>
<u>3rd</u>	<u>67.5</u>
<u>4th</u>	<u>90.0</u>

(c) a large corporation shall be treated as any other corporation for purposes of this section and Section [59-7-504](#);

(d) if a taxpayer elects a different annualization period than the one used for federal purposes, the taxpayer shall make an election with the commission at the same time as provided under Section 6655, Internal Revenue Code; and

(e) the due date shall be superseded by the due date for federal estimated payments if modified by other federal action.

(4) This section supersedes any conflicting provisions of Utah law.

Section 3. Section **59-7-505.1** is enacted to read:

59-7-505.1. Modification of return due date and extension period.

89 (1) The Legislature intends that:

90 (a) Subsection (2) replace Subsection [59-7-505\(2\)](#);

91 (b) Subsection (3) replace Subsection [59-7-505\(3\)](#); and

92 (c) the remaining subsections of Section [59-7-505](#) apply as written.

93 (2) (a) A corporation shall make a return on or before the later of:

94 (i) the 15th day of the fourth month following the close of the taxable year; or

95 (ii) the day on which a corporation required to make a return under this chapter is
96 required to file a federal income tax return.

97 (b) Interest accrues from the day on which a return is due under this Subsection (2).

98 (3) (a) The commission shall allow a taxpayer an extension of the time for filing a
99 return.

100 (b) Except as provided in Subsection (3)(c), the extension described in Subsection
101 (3)(a) may be for up to six months.

102 (c) For a taxable year beginning on or after January 1, 2019, but beginning on or before
103 December 31, 2019, a taxpayer may receive an extension described in Subsection (3)(a) for the
104 time period that ends on the last day of the extension to file the taxpayer's federal income tax
105 return.

106 (4) This section supersedes any conflicting provisions of Utah law.

107 Section 4. Section **59-7-507.1** is enacted to read:

108 **59-7-507.1. Modification of time for payment of tax.**

109 (1) The Legislature intends that:

110 (a) Subsection (2) replace Subsection [59-7-507\(1\)\(a\)](#);

111 (b) (i) Subsection (3)(a) replace Subsection [59-7-507\(1\)\(b\)](#); and

112 (ii) Subsection (3)(b) replace Subsection [59-7-507\(1\)\(c\)](#);

113 (c) Subsection (4) replace Subsection [59-7-507\(2\)\(a\)](#) for a taxable year beginning on or
114 after January 1, 2019, but beginning on or before December 31, 2019; and

115 (d) the remaining subsections of Section [59-7-507](#) apply as written.

116 (2) If an estimated payment is not made as provided in Section [59-7-504.1](#), the amount
117 of the tax imposed by this chapter shall be paid no later than the due date of the return
118 described in Subsection [59-7-505.1\(2\)](#).

119 (3) (a) If a taxpayer needs an extension of time to file a return, as provided in Section

59-7-505.1 or 59-7-803, a taxpayer shall pay, no later than the due date of the return described in Subsection 59-7-505.1(2), an amount equal to the lesser of:

(i) the greater of:

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

(B) 100% of the minimum tax described in Section 59-7-104; or

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

(b) If payment is not made as provided in Subsection (3)(a), the commission shall add an extension penalty as provided in Section 59-1-401, until the tax is paid during the period of extension.

(4) A taxpayer shall receive an extension of the time for the payment of the amount determined as the tax of the taxpayer, or any part of that amount, for the time period that ends on the last day of the extension to pay the taxpayer's federal income tax.

(5) This section supersedes any conflicting provisions of Utah law.

Section 5. Section **59-10-103.2** is enacted to read:

59-10-103.2. Additional chapter definitions.

(1) The Legislature intends:

(a) that the definitions in Subsections (2) and (3) supplement the definitions in Section 59-10-103;

(b) the definition in Subsection (4) replace the definition of "taxpayer" in Section 59-10-103; and

(c) the remaining subsections of Section 59-10-103 apply as written.

(2) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(3) "Pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.

(4) "Taxpayer" means any of the following that has income subject in whole or in part to the tax imposed by this chapter:

(a) an individual;

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

151 (c) a pass-through entity; or

152 (d) a pass-through entity taxpayer.

153 (5) This section supersedes any conflicting provisions of Utah law.

154 Section 6. Section **59-10-114.1** is enacted to read:

155 **59-10-114.1. Additional subtraction from income.**

156 (1) The Legislature intends that the subtraction described in Subsection (2) be in
157 addition to the subtractions described in Section [59-10-114](#).

158 (2) There shall be subtracted from adjusted gross income of a resident or nonresident
159 individual an amount of a distribution from a qualified retirement plan under Section 401(a),
160 Internal Revenue Code, if:

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

163 (b) for the taxable year when the amount of the distribution was contributed to the
164 qualified retirement plan, the amount of the distribution:

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

167 (ii) was taxed by another state of the United States, the District of Columbia, or a
168 possession of the United States.

169 (3) This section supersedes any conflicting provisions of Utah law.

170 Section 7. Section **59-10-514.2** is enacted to read:

171 **59-10-514.2. Modification of return due date.**

172 (1) The Legislature intends that:

173 (a) Subsection (2) replace Subsection [59-10-514](#)(1); and

174 (b) the remaining subsections of Section [59-10-514](#) apply as written.

175 (2) (a) Subject to Subsection [59-10-514](#)(3) and Section [59-10-518](#):

176 (i) an individual income tax return filed for a tax imposed in accordance with Part 1,
177 Determination and Reporting of Tax Liability and Information, shall be filed with the
178 commission on or before the day on which a federal individual income tax return is due;

179 (ii) a fiduciary income tax return filed for a tax imposed in accordance with Part 2,
180 Trusts and Estates, shall be filed with the commission on or before the day on which a federal
181 return for estates and trusts is due; and

(iii) a return filed in accordance with Section 59-10-507 shall be filed with the commission on or before the later of:

(A) the 15th day of the fourth month following the last day of the taxpayer's taxable year; or

(B) the day on which the taxpayer is required to file a federal income tax return.

(b) Interest accrues from the day on which a return is due under this Subsection (2).

(3) This section supersedes any conflicting provisions of Utah law.

Section 8. Section 59-10-516.1 is enacted to read:

59-10-516.1. Modification of extension dates.

(1) The Legislature intends that:

(a) Subsection (2) replace Subsection 59-10-516(1);

(b) Subsections (3) and (4) replace Subsection 59-10-516(2); and

(c) the remaining subsections of Section 59-10-516 apply as written.

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

(b) Except as provided in Subsection (2)(c):

(i) for a return filed by a taxpayer other than a partnership, the extension described in Subsection (2)(a) may be for up to six months; and

(ii) for a return filed by a taxpayer that is a partnership, the extension described in Subsection (2)(a) may be for up to five months.

(c) For a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, a taxpayer may receive an extension described in Subsection (2)(a) for the time period that ends on the last day of the extension to file the taxpayer's federal income tax return.

(3) Except as provided in Subsection (4), the commission may not impose a penalty under Section 59-1-401 on:

(a) a pass-through entity during the extension period described under Subsection (2) if the pass-through entity, on or before the return due date, pays or withholds the tax on behalf of a pass-through entity taxpayer; or

(b) a taxpayer other than a taxpayer described in Subsection (3)(a) during the extension period described in Subsection (2) if the taxpayer pays, on or before the return due date

described in Section [59-10-514.2](#), an amount equal to the lesser of:

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

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

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

(5) This section supersedes any conflicting provisions of Utah law.

Section 9. Section **59-10-522.1** is enacted to read:

59-10-522.1. Limitation on commission authority to extend the time for payment of tax.

(1) The Legislature intends that Subsection (2) replace Subsection [59-10-522\(1\)](#) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019.

(2) A taxpayer shall receive an extension of the time for the payment of the amount determined as the tax of the taxpayer, or any part of that amount, for the time period that ends on the last day of the extension to pay the taxpayer's federal income tax.

(3) This section supersedes any conflicting provisions of Utah law.

Section 10. Section **59-10-1403.4** is enacted to read:

59-10-1403.4. Modification of return filing requirements for pass-through entity.

(1) The Legislature intends that:

(a) Subsection (2) replace Subsection [59-10-1403\(3\)](#); and

(b) the remaining subsections of Section [59-10-1403](#) apply as written.

(2) A pass-through entity is subject to the return filing requirements of Sections [59-10-507](#), [59-10-514](#), [59-10-514.2](#), [59-10-516](#), and [59-10-516.1](#).

(3) This section supersedes any conflicting provisions of Utah law.

Section 11. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 12. **Retrospective operation.**

244 (1) Except as provided in Subsections (2) and (3), this bill has retrospective operation
245 for a taxable year beginning on or after January 1, 2019.

246 (2) The changes to Section [59-10-114.1](#) have retrospective operation for a taxable year
247 beginning on or after January 1, 2020.

248 (3) The changes to Section [59-7-118.1](#) have retrospective operation for:

249 (a) the last taxable year of a taxpayer beginning on or before December 31, 2017; and

250 (b) a taxable year beginning on or after January 1, 2018.