

Senator Curtis S. Bramble proposes the following substitute bill:

**CORPORATE TAX AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: Robert M. Spendlove

---

---

**LONG TITLE**

**General Description:**

This bill amends corporate franchise and income tax provisions related to Utah net loss.

**Highlighted Provisions:**

This bill:

- ▶ allows a taxpayer to carry back, for up to three years, a Utah net loss realized during certain taxable years;

- ▶ provides a process for carrying back a Utah net loss;

- ▶ authorizes the State Tax Commission to make rules to administer the Utah net loss carry back;

- ▶ clarifies the calculation of the 80% limitation on carrying forward a Utah net loss;

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:



26 [59-7-101](#), as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 15  
27 [59-7-110](#), as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 10  
28 [59-7-522](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 3

---

---

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

31 Section 1. Section [59-7-101](#) is amended to read:

32 **[59-7-101. Definitions.](#)**

33 As used in this chapter:

34 (1) "Adjusted income" means unadjusted income as modified by Sections [59-7-105](#)  
35 and [59-7-106](#).

36 (2) (a) "Affiliated group" means one or more chains of corporations that are connected  
37 through stock ownership with a common parent corporation that meet the following  
38 requirements:

39 (i) at least 80% of the stock of each of the corporations in the group, excluding the  
40 common parent corporation, is owned by one or more of the other corporations in the group;  
41 and

42 (ii) the common parent directly owns at least 80% of the stock of at least one of the  
43 corporations in the group.

44 (b) "Affiliated group" does not include corporations that are qualified to do business  
45 but are not otherwise doing business in this state.

46 (c) For purposes of this Subsection (2), "stock" does not include nonvoting stock which  
47 is limited and preferred as to dividends.

48 (3) "Apportionable income" means adjusted income less nonbusiness income net of  
49 related expenses, to the extent included in adjusted income.

50 (4) "Apportioned income" means apportionable income multiplied by the  
51 apportionment fraction as determined in Section [59-7-311](#).

52 (5) "Business income" means the same as that term is defined in Section [59-7-302](#).

53 (6) "Captive insurance company" means the same as that term is defined in Section  
54 [31A-1-301](#).

55 (7) (a) "Captive real estate investment trust" means a real estate investment trust if:

56 (i) the shares or beneficial interests of the real estate investment trust are not regularly

57 traded on an established securities market; and

58 (ii) more than 50% of the voting power or value of the shares or beneficial interests of  
59 the real estate investment trust are directly, indirectly, or constructively:

60 (A) owned by a controlling entity of the real estate investment trust; or

61 (B) controlled by a controlling entity of the real estate investment trust.

62 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
63 commission may make rules defining "established securities market."

64 (8) (a) "Common ownership" means the direct or indirect control or ownership of more  
65 than 50% of the outstanding voting stock of:

66 (i) a parent-subsidiary controlled group as defined in Section 1563, Internal Revenue  
67 Code, except that 50% shall be substituted for 80%;

68 (ii) a brother-sister controlled group as defined in Section 1563, Internal Revenue  
69 Code; or

70 (iii) three or more corporations each of which is a member of a group of corporations  
71 described in Subsection (2)(a)(i) or (ii), and one of which is:

72 (A) a common parent corporation included in a group of corporations described in  
73 Subsection (2)(a)(i); and

74 (B) included in a group of corporations described in Subsection (2)(a)(ii).

75 (b) Ownership of outstanding voting stock shall be determined by Section 1563,  
76 Internal Revenue Code.

77 (9) (a) "Controlling entity of a captive real estate investment trust" means an entity  
78 that:

79 (i) is treated as an association taxable as a corporation under the Internal Revenue  
80 Code;

81 (ii) is not exempt from federal income taxation under Section 501(a), Internal Revenue  
82 Code; and

83 (iii) directly, indirectly, or constructively holds more than 50% of:

84 (A) the voting power of a captive real estate investment trust; or

85 (B) the value of the shares or beneficial interests of a captive real estate investment  
86 trust.

87 (b) "Controlling entity of a captive real estate investment trust" does not include:

- 88 (i) a real estate investment trust, except for a captive real estate investment trust;
- 89 (ii) a qualified real estate investment subsidiary described in Section 856(i), Internal  
90 Revenue Code, except for a qualified real estate investment trust subsidiary of a captive real  
91 estate investment trust; or
- 92 (iii) a foreign real estate investment trust.
- 93 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
94 commission may make rules defining "established securities market."
- 95 (10) "Corporate return" or "return" includes a combined report.
- 96 (11) "Corporation" includes:
- 97 (a) entities defined as corporations under Sections 7701(a) and 7704, Internal Revenue  
98 Code; and
- 99 (b) other organizations that are taxed as corporations for federal income tax purposes  
100 under the Internal Revenue Code.
- 101 (12) "COVID-19" means:
- 102 (a) the severe acute respiratory syndrome coronavirus 2; or
- 103 (b) the disease caused by severe acute respiratory syndrome coronavirus 2.
- 104 (13) "Dividend" means any distribution, including money or other type of property,  
105 made by a corporation to its shareholders out of its earnings or profits accumulated after  
106 December 31, 1930.
- 107 (14) (a) "Doing business" includes any transaction in the course of business by a  
108 domestic corporation or by a foreign corporation qualified to do or doing business in this state.
- 109 (b) Except as provided in Subsection (14)(c) or Subsection 59-7-102(3), "doing  
110 business" includes:
- 111 (i) the right to do business through incorporation or qualification;
- 112 (ii) owning, renting, or leasing of real or personal property within this state;
- 113 (iii) the participation in joint ventures, working and operating agreements, the  
114 performance of which takes place in this state;
- 115 (iv) selling or performing a service in this state; and
- 116 (v) earning income from the use of intangible property in this state.
- 117 (c) "Doing business" does not include the business activity of a corporation if the  
118 corporation's only business activity within the state is the solicitation of orders for sales of

119 tangible personal property that are protected under 15 U.S.C. Secs. 381 through 384.

120 (15) "Domestic corporation" means a corporation that is incorporated or organized  
121 under the laws of this state.

122 (16) "Exercising a corporate franchise" does not include the business activity of a  
123 corporation if the corporation's only business activity within the state is the solicitation of  
124 orders for sales of tangible personal property that are protected under 15 U.S.C. Secs. 381  
125 through 384.

126 (17) (a) "Farmers' cooperative" means an association, corporation, or other  
127 organization that is:

128 (i) (A) an association, corporation, or other organization of farmers or fruit growers; or

129 (B) an association, corporation, or other organization that is similar to an association,  
130 corporation, or organization described in Subsection (17)(a)(i)(A); and

131 (ii) organized and operated on a cooperative basis to:

132 (A) (I) market the products of members of the cooperative or the products of other  
133 producers; and

134 (II) return to the members of the cooperative or other producers the proceeds of sales  
135 less necessary marketing expenses on the basis of the quantity of the products of a member or  
136 producer or the value of the products of a member or producer; or

137 (B) (I) purchase supplies and equipment for the use of members of the cooperative or  
138 other persons; and

139 (II) turn over the supplies and equipment described in Subsection (17)(a)(ii)(B)(I) at  
140 actual costs plus necessary expenses to the members of the cooperative or other persons.

141 (b) (i) Subject to Subsection (17)(b)(ii), for purposes of this Subsection (17), the  
142 commission by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative  
143 Rulemaking Act, shall define:

144 (A) the terms "member" and "producer"; and

145 (B) what constitutes an association, corporation, or other organization that is similar to  
146 an association, corporation, or organization described in Subsection (17)(a)(i)(A).

147 (ii) The rules made under this Subsection (17)(b) shall be consistent with the filing  
148 requirements under federal law for a farmers' cooperative.

149 (18) "Foreign corporation" means a corporation that is not incorporated or organized

150 under the laws of this state.

151 (19) (a) "Foreign operating company" means a corporation that:

152 (i) is incorporated in the United States;

153 (ii) conducts at least 80% of the corporation's business activity, as determined under

154 Section 59-7-401, outside the United States; and

155 (iii) as calculated in accordance with Part 3, Allocation and Apportionment of Income -

156 Utah UDITPA Provisions, has:

157 (A) at least \$1,000,000 of payroll located outside the United States; and

158 (B) at least \$2,000,000 of property located outside the United States.

159 (b) "Foreign operating company" does not include a corporation that qualifies for the

160 Puerto Rico and possession tax credit as provided in Section 936, Internal Revenue Code.

161 (20) (a) "Foreign real estate investment trust" means:

162 (i) a business entity organized outside the laws of the United States if:

163 (A) at least 75% of the business entity's total asset value at the close of the business

164 entity's taxable year is represented by:

165 (I) real estate assets, as defined in Section 856(c)(5)(B), Internal Revenue Code;

166 (II) cash or cash equivalents; or

167 (III) one or more securities issued or guaranteed by the United States;

168 (B) the business entity is:

169 (I) not subject to income taxation:

170 (Aa) on amounts distributed to the business entity's beneficial owners; and

171 (Bb) in the jurisdiction in which the business entity is organized; or

172 (II) exempt from income taxation on an entity level in the jurisdiction in which the

173 business entity is organized;

174 (C) the business entity distributes at least 85% of the business entity's taxable income,

175 as computed in the jurisdiction in which the business entity is organized, to the holders of the

176 business entity's:

177 (I) shares or beneficial interests; and

178 (II) on an annual basis;

179 (D) (I) not more than 10% of the following is held directly, indirectly, or constructively

180 by a single person:

- 181 (Aa) the voting power of the business entity; or  
182 (Bb) the value of the shares or beneficial interests of the business entity; or  
183 (II) the shares of the business entity are regularly traded on an established securities  
184 market; and  
185 (E) the business entity is organized in a country that has a tax treaty with the United  
186 States; or  
187 (ii) a listed Australian property trust.  
188 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
189 commission may make rules defining:  
190 (i) "cash or cash equivalents";  
191 (ii) "established securities market"; or  
192 (iii) "listed Australian property trust."  
193 (21) "Income" includes losses.  
194 (22) "Internal Revenue Code" means Title 26 of the United States Code as effective  
195 during the year in which Utah taxable income is determined.  
196 (23) "Nonbusiness income" means the same as that term is defined in Section  
197 [59-7-302](#).  
198 (24) "Real estate investment trust" means the same as that term is defined in Section  
199 856, Internal Revenue Code.  
200 (25) "Related expenses" means:  
201 (a) expenses directly attributable to nonbusiness income; and  
202 (b) the portion of interest or other expense indirectly attributable to both nonbusiness  
203 and business income that bears the same ratio to the aggregate amount of such interest or other  
204 expense, determined without regard to this Subsection (25), as the average amount of the asset  
205 producing the nonbusiness income bears to the average amount of all assets of the taxpayer  
206 within the taxable year.  
207 (26) "S corporation" means an S corporation as defined in Section 1361, Internal  
208 Revenue Code.  
209 (27) "Safe harbor lease" means a lease that qualified as a safe harbor lease under  
210 Section 168, Internal Revenue Code.  
211 (28) "State of the United States" includes any of the 50 states or the District of

212 Columbia.

213 (29) (a) "Taxable year" means the calendar year or the fiscal year ending during such  
214 calendar year upon the basis of which the adjusted income is computed.

215 (b) In the case of a return made for a fractional part of a year under this chapter or  
216 under rules prescribed by the commission, "taxable year" includes the period for which such  
217 return is made.

218 (30) "Taxpayer" means any corporation subject to the tax imposed by this chapter.

219 (31) "Threshold level of business activity" means business activity in the United States  
220 equal to or greater than 20% of the corporation's total business activity as determined under  
221 Section 59-7-401.

222 (32) (a) "Unadjusted income" means federal taxable income as determined on a  
223 separate return basis before intercompany eliminations as determined by the Internal Revenue  
224 Code, before the net operating loss deduction and special deductions for dividends received.

225 (b) "Unadjusted income" includes deferred foreign income described in Section 965(a),  
226 Internal Revenue Code.

227 (c) "Unadjusted income" does not include income received from:

228 (i) a loan forgiven in accordance with 15 U.S.C. Sec. 636(a)(36), to the extent that a  
229 deduction for the expenditures paid with the loan is disallowed; or

230 (ii) a similar paycheck protection loan that is:

231 (A) authorized by the federal government;

232 (B) provided in response to COVID-19;

233 (C) forgiven if the borrower meets the expenditure requirements; and

234 (D) exempt from federal income tax, to the extent that a deduction for the expenditures  
235 paid with the loan is disallowed.

236 (33) (a) "Unitary group" means a group of corporations that:

237 (i) are related through common ownership; and

238 (ii) by a preponderance of the evidence as determined by a court of competent  
239 jurisdiction or the commission, are economically interdependent with one another as

240 demonstrated by the following factors:

241 (A) centralized management;

242 (B) functional integration; and



243 (C) economies of scale.

244 (b) "Unitary group" includes a captive real estate investment trust.

245 (c) "Unitary group" does not include an S corporation.

246 (34) "United States" includes the 50 states and the District of Columbia.

247 (35) "Utah net loss" means the current year Utah taxable income before Utah net loss  
248 deduction, if determined to be less than zero.

249 (36) "Utah net loss deduction" means the amount of Utah net losses from other taxable  
250 years that a taxpayer may carry back or carry forward to the current taxable year in accordance  
251 with Section [59-7-110](#).

252 (37) (a) "Utah taxable income" means Utah taxable income before net loss deduction  
253 less Utah net loss deduction.

254 (b) "Utah taxable income" includes income from tangible or intangible property located  
255 or having situs in this state, regardless of whether carried on in intrastate, interstate, or foreign  
256 commerce.

257 (38) "Utah taxable income before net loss deduction" means apportioned income plus  
258 nonbusiness income allocable to Utah net of related expenses.

259 (39) (a) "Water's edge combined report" means a report combining the income and  
260 activities of:

261 (i) all members of a unitary group that are:

262 (A) corporations organized or incorporated in the United States, including those  
263 corporations qualifying for the Puerto Rico and Possession Tax Credit as provided in Section  
264 936, Internal Revenue Code, in accordance with Subsection (39)(b); and

265 (B) corporations organized or incorporated outside of the United States meeting the  
266 threshold level of business activity; and

267 (ii) an affiliated group electing to file a water's edge combined report under Subsection  
268 [59-7-402\(2\)](#).

269 (b) There is a rebuttable presumption that a corporation which qualifies for the Puerto  
270 Rico and possession tax credit provided in Section 936, Internal Revenue Code, is part of a  
271 unitary group.

272 (40) "Worldwide combined report" means the combination of the income and activities  
273 of all members of a unitary group irrespective of the country in which the corporations are

274 incorporated or conduct business activity.

275 Section 2. Section **59-7-110** is amended to read:

276 **59-7-110. Utah net loss -- Carry back and carry forward -- Deduction.**

277 (1) A taxpayer shall determine the amount of Utah net loss that the taxpayer may carry  
278 back or carry forward to offset income of another taxable year as provided in this section.

279 (2) Subject to the other provisions of this section, a taxpayer:

280 (a) for a taxable year other than a taxable year described in Subsection (2)(b):

281 (i) may carry forward a Utah net loss from a taxable year to a future taxable year; and

282 ~~[(b)]~~ (ii) may not carry back a Utah net loss from a taxable year[-]; and

283 (b) for a taxable year that begins on or after July 1, 2019, but ends on or before June  
284 29, 2022:

285 (i) ~~Ŝ →~~ ~~[shall]~~ may ~~←Ŝ~~ carry back a Utah net loss from a taxable year to the three taxable  
285a years

286 immediately preceding the taxable year of the Utah net loss; Ŝ → [and] or ←Ŝ

287 (ii) may carry forward ~~Ŝ →~~ ~~[any remaining]~~ a ~~←Ŝ~~ Utah net loss ~~Ŝ →~~ ~~[after the carry back]~~  
287a ~~←Ŝ~~ from a taxable

288 year to a future taxable year.

289 (3) (a) A taxpayer that carries back a Utah net loss:

290 (i) shall carry back the Utah net loss in the following order ~~Ŝ →~~ ~~[before the taxpayer carries~~  
291 ~~forward any Utah net loss]~~ ~~←Ŝ~~ :

292 (A) to the earliest eligible year for which the Utah taxable income before net loss  
293 deduction, minus Utah net losses from previous years that a taxpayer applied or was required to  
294 apply to offset income, is not less than zero;

295 (B) to the next earliest year for which the Utah taxable income before net loss  
296 deduction, minus Utah net losses from previous years that a taxpayer applied or was required to  
297 apply to offset income, is not less than zero, if any; and

298 (C) to the next earliest year for which the Utah taxable income before net loss  
299 deduction, minus Utah net losses from previous years that a taxpayer applied or was required to  
300 apply to offset income, is not less than zero, if any; and

301 (ii) may not combine a Utah net loss that the taxpayer carries forward from previous  
302 taxable years with the amount of the Utah net loss that the taxpayer carries back.

303 (b) (i) The total amount of Utah net loss from a taxable year for each return filed under  
304 this chapter that a taxpayer may carry back is \$1,000,000, regardless of whether the taxpayer

305 carries the Utah net loss back to one taxable year or multiple taxable years.

306 (ii) A taxpayer may carry forward an amount of Utah net loss that exceeds \$1,000,000.

307 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
308 commission may make rules for administering the carry back of a Utah net loss.

309 ~~[(3)]~~ (4) A taxpayer that carries forward a Utah net loss shall carry forward the Utah  
310 net loss to the earliest eligible year for which the Utah taxable income before net loss  
311 deduction, minus Utah net losses from previous years that a taxpayer applied or was required to  
312 apply to offset income, is not less than zero.

313 ~~[(4)]~~ (5) (a) Subject to Subsection ~~[(4)]~~ (5)(b), the amount of Utah net loss that a  
314 taxpayer may carry to the year identified in Subsection (3) or (4) is the lesser of:

315 (i) the remaining Utah net loss after deduction of any amounts of the Utah net loss that  
316 a taxpayer carried to previous years; or

317 (ii) the remaining Utah taxable income before net loss deduction of the year identified  
318 in Subsection (3) or (4) after deduction of Utah net losses from previous years that a taxpayer  
319 carried or was required to carry to the year identified in Subsection (3) or (4).

320 (b) (i) For a taxable year beginning on or after January 1, 2021, the amount of Utah net  
321 loss that a taxpayer may carry forward to a taxable year may not exceed 80% of Utah taxable  
322 income computed without regard to the deduction ~~[allowable under this section]~~ of any Utah  
323 net loss.

324 (ii) A taxpayer may carry a remaining Utah net loss to one or more taxable years in  
325 accordance with this section.

326 (c) If the only Utah net loss that a taxpayer carries forward is from a taxable year that  
327 began before January 1, 2018, the commission:

328 (i) shall instruct the taxpayer to calculate the 80% limitation described in Subsection  
329 (5)(b) by following federal guidance for calculating the 80% taxable income limitation for  
330 federal income tax purposes; or

331 (ii) if the commission determines that adequate federal corporate guidance on how to  
332 calculate the 80% limitation is unavailable, may not apply the 80% limitation to the Utah net  
333 loss.

334 (d) If a taxpayer carries forward a Utah net loss from a taxable year beginning before  
335 January 1, 2018, and a Utah net loss from a taxable year beginning on or after January 1, 2018,

336 the commission shall instruct the taxpayer to calculate the 80% limitation described in  
337 Subsection (5)(b) by:

338 (i) following federal guidance for calculating the 80% of taxable income limitation for  
339 federal income tax purposes; or

340 (ii) if the commission determines that adequate federal corporate guidance on how to  
341 calculate the 80% limitation is unavailable, by:

342 (A) calculating 80% of Utah taxable income before deducting any Utah net losses from  
343 Utah taxable income; and

344 (B) applying the limitation that the Utah net loss that a taxpayer carries forward may  
345 not exceed 80% of Utah taxable income to Utah net losses incurred on or after January 1, 2018,  
346 without regard to Utah net losses from a previous taxable year that the taxpayer carries  
347 forward.

348 (e) The commission shall:

349 (i) make a determination annually, on or before April 15 of the year after the taxable  
350 year ends, about whether adequate federal corporate guidance on how to calculate the 80%  
351 limitation is available; and

352 (ii) if the commission determines that adequate federal corporate guidance on how to  
353 calculate the 80% limitation is unavailable, notify the Revenue and Taxation Interim  
354 Committee, electronically before the next interim committee meeting, that the commission  
355 intends to issue instructions in accordance with Subsection (5)(c)(ii) or (d)(ii).

356 ~~[(5)]~~ (6) (a) (i) Subject to Subsection ~~[(5)]~~ (6)(a)(ii), a corporation acquiring the assets  
357 or stock of another corporation may not deduct any net loss incurred by the acquired  
358 corporation prior to the date of acquisition.

359 ~~[(5)]~~ (6)(a)(i) does not apply if the only change in the corporation is that  
360 of the state of incorporation.

361 (b) An acquired corporation may deduct the acquired corporation's net losses incurred  
362 before the date of acquisition against the acquired corporation's separate income as calculated  
363 under Subsections ~~[(6)]~~ (7) and ~~[(7)]~~ (8) if the acquired corporation has continued to carry on a  
364 trade or business substantially the same as that conducted before the acquisition.

365 ~~[(6)]~~ (7) For purposes of Subsection ~~[(5)]~~ (6)(b), the amount of net loss an acquired  
366 corporation that is acquired by a unitary group may deduct is calculated by:

- 367 (a) subject to Subsection [~~(7)~~] (8):
- 368 (i) except as provided in Subsection [~~(6)~~] (7)(a)(ii), calculating the sum of:
- 369 (A) an amount determined by dividing the average value of the acquired corporation's
- 370 real and tangible personal property owned or rented and used in this state during the taxable
- 371 year by the average value of all of the unitary group's real and tangible personal property owned
- 372 or rented and used during the taxable year;
- 373 (B) an amount determined by dividing the total amount paid in this state during the
- 374 taxable year by the acquired corporation for compensation by the total compensation paid
- 375 everywhere by the unitary group during the taxable year; and
- 376 (C) an amount determined by:
- 377 (I) dividing the total sales of the acquired corporation in this state during the taxable
- 378 year by the total sales of the unitary group everywhere during the taxable year; and
- 379 (II) if the unitary group elects or is required to calculate the fraction for apportioning
- 380 business income to this state using the method described in Subsection 59-7-311(4) in taxable
- 381 year 2019 or taxable year 2020, multiplying the amount calculated under Subsection [~~(6)~~]
- 382 (7)(a)(i)(C)(I) by, for the taxable year 2019, four, or, for the taxable year 2020, eight; or
- 383 (ii) if the unitary group is required or elects to calculate the fraction for apportioning
- 384 business income to this state using the method described in Subsection 59-7-311(2), calculating
- 385 an amount determined by dividing the total sales of the acquired corporation in this state during
- 386 the taxable year by the total sales of the unitary group everywhere during the taxable year;
- 387 (b) dividing the amount calculated under Subsection [~~(6)~~] (7)(a) by the same
- 388 denominator of the fraction the unitary group uses to apportion business income to this state for
- 389 that taxable year in accordance with Section 59-7-311;
- 390 (c) multiplying the amount calculated under Subsection [~~(6)~~] (7)(b) by the business
- 391 income of the unitary group for the taxable year that is subject to apportionment under Section
- 392 59-7-311; and
- 393 (d) calculating the sum of:
- 394 (i) the amount calculated under Subsection [~~(6)~~] (7)(c); and
- 395 (ii) the following amounts allocable to the acquired corporation for the taxable year:
- 396 (A) nonbusiness income allocable to this state; or
- 397 (B) nonbusiness loss allocable to this state.

398            [(7)] (8) The amounts calculated under Subsection [(6)] (7)(a) shall be derived in the  
399 same manner as those amounts are derived for purposes of apportioning the unitary group's  
400 business income before deducting the net loss, including a modification made in accordance  
401 with Section 59-7-320.

402            Section 3. Section 59-7-522 is amended to read:

403            **59-7-522. Overpayments.**

404            (1) As used in this section, "overpayment" means the same as that term is defined in  
405 Section 59-1-1409.

406            (2) (a) Subject to Subsection (2)(b), a taxpayer shall file a claim for credit or refund of  
407 an overpayment that is attributable to a Utah net loss carry forward ~~[shall be filed]~~ or carry  
408 back within three years from the due date of the return for the taxable year of the Utah net loss.

409            (b) The three-year period described in Subsection (2)(a) shall be extended by any  
410 extension of time provided in statute for filing the return described in Subsection (2)(a).

411            (c) A taxpayer shall file a claim described in Subsection (2)(a) in the format required  
412 by the commission.

413            (3) The commission shall make a credit against or refund of any overpayment of a tax  
414 under this chapter for a taxable year if, in accordance with Section 59-7-519:

415            (a) (i) a corporation agrees with the commissioner of internal revenue for an extension,  
416 or a renewal of an extension, of the period for proposing and assessing a deficiency in federal  
417 income tax for that taxable year; or

418            (ii) there is a change in or correction of federal taxable income for that taxable year;  
419 and

420            (b) the corporation files a claim for the credit or refund before the expiration of the  
421 time period within which the commission may assess a deficiency.

422            (4) The commission shall make a credit or refund within a 30-day period after the day  
423 on which a court's decision to require the commission to credit or refund the amount of an  
424 overpayment to a taxpayer is final.

425            Section 4. **Retrospective operation.**

426            This bill has retrospective operation for a taxable year beginning on or after July 1,  
427 2019.