

**TAX ASSESSMENT AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Eliason**

Senate Sponsor: Lincoln Fillmore

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**LONG TITLE**

**Committee Note:**

The Revenue and Taxation Interim Committee recommended this bill.

Legislative Vote: 15 voting for 0 voting against 3 absent

**General Description:**

This bill modifies provisions relating to tax assessments.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires a county assessor to provide certain assessment data to the commission;
- ▶ establishes a date by which the county assessor must provide the assessment data to the commission;
- ▶ permits the commission to review the county's assessment data and to provide findings and make recommendations to the county;
- ▶ permits the commission to subscribe to a market data service; and
- ▶ establishes requirements for a pass-through entity when filing an amended return.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:**



28 AMENDS:

29 [59-10-1403](#), as last amended by Laws of Utah 2022, Chapter 238

30 [59-10-1403.2](#), as last amended by Laws of Utah 2022, Chapter 238

31 ENACTS:

32 [59-2-313.1](#), Utah Code Annotated 1953



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

35 Section 1. Section [59-2-313.1](#) is enacted to read:

36 **[59-2-313.1](#). County assessor duties to provide assessment data - Commission**  
37 **review - Subscription to market data service.**

38 (1) As used in this section, "assessment data" means:

39 (a) the information described in Subsection [59-2-303.1](#)(6) contained in a county's  
40 database used in mass appraisal; and

41 (b) any other assessment information the commission requires.

42 (2) A county assessor shall provide assessment data to the commission:

43 (a) (i) annually on or before March 31;

44 (ii) no later than 15 days after the date the county assessor provides the assessment  
45 book to the county auditor under Section [59-2-311](#);

46 (iii) no later than 15 days after the date the county auditor provides the assessment roll  
47 to the county treasurer under Section [59-2-326](#); and

48 (b) at any other time requested by the commission.

49 (3) The commission may:

50 (a) review a county's annual update of property values the county is required to perform  
51 under Section [59-2-303.1](#);

52 (b) review a county's detailed review of property characteristics the county is required  
53 to perform under Section [59-2-303.1](#); and

54 (c) provide findings and recommendations to the county.

55 (4) The commission may subscribe to a market data service to assist:

56 (a) the commission in performing a review described in Subsection (3); and

57 (b) counties in meeting the requirements of Section [59-2-303.1](#).

58 Section 2. Section [59-10-1403](#) is amended to read:

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

61           (1) Subject to Subsection (3) and except as provided in Subsection 59-10-1403.2(2), a  
62 pass-through entity is not subject to a tax imposed by this chapter.

63           (2) Except as provided in Section 59-10-1403.3, the income, gain, loss, deduction, or  
64 credit of a pass-through entity shall be passed through to one or more pass-through entity  
65 taxpayers as provided in this part.

66           (3) A pass-through entity is subject to the return filing requirements of Sections  
67 59-10-507, 59-10-514, and 59-10-516.

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

71           (5) (a) If a change is made in a pass-through entity's net income or loss on the  
72 pass-through entity's federal income tax return because of an action of the federal government,  
73 the pass-through entity shall file with the commission, within 90 days after the date of a final  
74 determination of the action:

75           (i) a copy of the pass-through entity's amended federal income tax return or federal  
76 adjustment; and

77           (ii) an amended state income tax return that conforms with the changes made in the  
78 pass-through entity's amended federal income tax return.

79           (b) If a change is made in a pass-through entity's net income on the pass-through  
80 entity's federal income tax return because the pass-through entity files an amended federal  
81 income tax return, the pass-through entity shall file with the commission, within 90 days after  
82 the date the taxpayer files the amended federal income tax return:

83           (i) a copy of the pass-through entity's amended federal income tax return; and

84           (ii) an amended state income tax return that conforms with the changes made in the  
85 pass-through entity's amended federal income tax return.

86           Section 3. Section 59-10-1403.2 is amended to read:

87           **59-10-1403.2. Pass-through entity payment or withholding of tax on behalf of a**  
88 **pass-through entity taxpayer -- Exceptions to payment or withholding requirement --**  
89 **Procedures and requirements -- Failure to pay or withhold a tax on behalf of a**

90 **pass-through entity taxpayer.**

91 (1) (a) Except as provided in Subsections (1)(b) and (2), for a taxable year, a  
92 pass-through entity shall pay or withhold a tax:

93 (i) on:

94 (A) the business income of the pass-through entity; and

95 (B) the nonbusiness income of the pass-through entity derived from or connected with  
96 Utah sources; and

97 (ii) on behalf of a pass-through entity taxpayer.

98 (b) A pass-through entity is not required to pay or withhold a tax under Subsection  
99 (1)(a):

100 (i) on behalf of a pass-through entity taxpayer who is a resident individual;

101 (ii) if the pass-through entity is an organization exempt from taxation under Subsection  
102 59-7-102(1)(a);

103 (iii) if the pass-through entity:

104 (A) is a plan under Section 401, 408, or 457, Internal Revenue Code; and

105 (B) is not required to file a return under Chapter 7, Corporate Franchise and Income  
106 Taxes, or this chapter;

107 (iv) if the pass-through entity is a publicly traded partnership:

108 (A) as defined in Section 7704(b), Internal Revenue Code;

109 (B) that is classified as a partnership for federal income tax purposes; and

110 (C) that files an annual information return reporting the following with respect to each  
111 partner of the publicly traded partnership with income derived from or connected with Utah  
112 sources that exceeds \$500 in a taxable year:

113 (I) the partner's name;

114 (II) the partner's address;

115 (III) the partner's taxpayer identification number; and

116 (IV) other information required by the commission; or

117 (v) on behalf of a pass-through entity taxpayer that is a nonresident individual if the  
118 pass-through entity pays the tax described in Subsection (2).

119 (2) (a) For each taxable year that begins on or after January 1, 2022, but begins on or  
120 before December 31, 2025, a pass-through entity that is not a disregarded pass-through entity

121 may elect to pay a tax in an amount equal to:

122 (i) the percentage listed in Subsection 59-10-104(2); and

123 (ii) voluntary taxable income.

124 (b) A pass-through entity that elects to pay the tax in accordance with Subsection (2)(a)

125 shall notify any final pass-through entity taxpayer of that election.

126 (c) A pass-through entity that pays a tax described in Subsection (2)(a) shall provide to

127 each pass-through entity taxpayer a statement that states the amount of tax paid on the income

128 attributed to the pass-through entity taxpayer.

129 (d) A payment of the tax described in Subsection (2)(a) on or before the last day of the

130 taxable year is an irrevocable election to be subject to the tax for the taxable year.

131 (3) (a) Subject to Subsection (3)(b), the tax a pass-through entity shall pay or withhold

132 on behalf of a pass-through entity taxpayer for a taxable year is an amount:

133 (i) determined by the commission by rule made in accordance with Title 63G, Chapter

134 3, Utah Administrative Rulemaking Act; and

135 (ii) that the commission estimates will be sufficient to pay the tax liability of the

136 pass-through entity taxpayer under this chapter with respect to the income described in

137 Subsection (1)(a)(i) or (2)(a)(ii) of that pass-through entity for the taxable year.

138 (b) The rules the commission makes in accordance with Subsection (3)(a):

139 (i) except as provided in Subsection (3)(c):

140 (A) shall:

141 (I) for a pass-through entity except for a pass-through entity that is an S corporation,

142 take into account items of income, gain, loss, deduction, and credit as analyzed on the schedule

143 for reporting partners' distributive share items as part of the federal income tax return for the

144 pass-through entity; or

145 (II) for a pass-through entity that is an S corporation, take into account items of

146 income, gain, loss, deduction, and credit as reconciled on the schedule for reporting

147 shareholders' pro rata share items as part of the federal income tax return for the pass-through

148 entity; and

149 (B) notwithstanding Subsection (3)(b)(ii)(D), take into account the refundable tax

150 credit provided in Section 59-6-102; and

151 (ii) may not take into account the following items if taking those items into account

152 does not result in an accurate estimate of a pass-through entity taxpayer's tax liability under this  
153 chapter for the taxable year:

- 154 (A) a capital loss;
- 155 (B) a passive loss;
- 156 (C) another item of deduction or loss if that item of deduction or loss is generally  
157 subject to significant reduction or limitation in calculating:

158 (I) for a pass-through entity taxpayer that is classified as a C corporation for federal  
159 income tax purposes, unadjusted income as defined in Section 59-7-101;

160 (II) for a pass-through entity that is classified as an individual, partnership, or S  
161 corporation for federal income tax purposes, adjusted gross income; or

162 (III) for a pass-through entity that is classified as an estate or a trust for federal income  
163 tax purposes, unadjusted income as defined in Section 59-10-103; or

164 (D) a tax credit allowed against a tax imposed under:

165 (I) Chapter 7, Corporate Franchise and Income Taxes; or

166 (II) this chapter.

167 (c) The rules the commission makes in accordance with Subsection (3)(a) may  
168 establish a method for taking into account items of income, gain, loss, deduction, or credit of a  
169 pass-through entity if:

170 (i) for a pass-through entity except for a pass-through entity that is an S corporation,  
171 the pass-through entity does not analyze the items of income, gain, loss, deduction, or credit on  
172 the schedule for reporting partners' distributive share items as part of the federal income tax  
173 return for the pass-through entity; or

174 (ii) for a pass-through entity that is an S corporation, the pass-through entity does not  
175 reconcile the items of income, gain, loss, deduction, or credit on the schedule for reporting  
176 shareholders' pro rata share items as part of the federal income tax return for the pass-through  
177 entity.

178 (4) (a) Except as provided in Subsection (4)(b), a pass-through entity shall remit to the  
179 commission the tax the pass-through entity pays or withholds on behalf of a pass-through entity  
180 taxpayer under this section:

181 (i) on or before the due date of the pass-through entity's return, not including  
182 extensions; and

183 (ii) on a form provided by the commission.

184 (b) A pass-through entity shall remit the tax described in Subsection (2) on or before  
185 the last day of the pass-through entity's taxable year.

186 (c) Except as provided in Subsection (1)(b), a pass-through entity that files an amended  
187 return under this part shall pay or withhold tax on any increase in the income described in  
188 Subsection (1)(a)(i) on behalf of the pass-through entity taxpayer and remit that tax to the  
189 commission.

190 (5) A pass-through entity shall provide a statement to a pass-through entity taxpayer on  
191 behalf of whom the pass-through entity pays or withholds a tax under this section showing the  
192 amount of tax the pass-through entity pays or withholds under this section for the taxable year  
193 on behalf of the pass-through entity taxpayer.

194 (6) Notwithstanding Section 59-1-401 or 59-1-402, the commission may not collect an  
195 amount under this section for a taxable year from a pass-through entity and shall waive any  
196 penalty and interest on that amount if:

197 (a) the pass-through entity fails to pay or withhold the tax on the amount as required by  
198 this section on behalf of the pass-through entity taxpayer;

199 (b) the pass-through entity taxpayer:

200 (i) files a return on or before the due date for filing the pass-through entity's return,  
201 including extensions; and

202 (ii) on or before the due date including extensions described in Subsection (6)(b)(i),  
203 pays the tax on the amount for the taxable year:

204 (A) if the pass-through entity taxpayer is classified as a C corporation for federal  
205 income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes; or

206 (B) if the pass-through entity taxpayer is classified as an estate, individual, partnership,  
207 S corporation, or a trust for federal income tax purposes, under this chapter; and

208 (c) the pass-through entity applies to the commission.

209 (7) Notwithstanding Section 59-1-401 or 59-1-402, the commission may not collect an  
210 amount under this section for a taxable year from a pass-through entity that is a trust and shall  
211 waive any penalty and interest on that amount if:

212 (a) the pass-through entity fails to pay or withhold the tax on the amount as required by  
213 this section on behalf of a dependent beneficiary;

214 (b) the pass-through entity applies to the commission; and

215 (c) (i) the dependent beneficiary complies with the requirements of Subsection (6)(b);

216 or

217 (ii) (A) the dependent beneficiary's adjusted gross income for the taxable year does not  
218 exceed the basic standard deduction for the dependent beneficiary, as calculated under Section  
219 63, Internal Revenue Code, for that taxable year; and

220 (B) the trustee of the trust retains a statement of dependent beneficiary income on  
221 behalf of the dependent beneficiary.

222 (8) If a pass-through entity would have otherwise qualified for a waiver of a penalty  
223 and interest under Subsection (7), except that the trustee of a trust has not applied to the  
224 commission as required by Subsection (7)(b) or retained the statement of dependent beneficiary  
225 income required by Subsection (7)(c)(ii)(B), it is a rebuttable presumption in an audit that the  
226 pass-through entity would have otherwise qualified for the waiver of the penalty and interest  
227 under Subsection (7).

228 **Section 4. Retrospective operation.**

229 The following sections have retrospective operation for the taxable year that begins on  
230 or after January 1, 2023:

231 (1) Section 59-10-1403; and

232 (2) Section 59-10-1403.2.