

TAX ASSESSMENT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Lincoln Fillmore

LONG TITLE

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:

AMENDS:

59-10-114, as last amended by Laws of Utah 2022, Chapter 238

59-10-406, as last amended by Laws of Utah 2022, Chapter 238

59-10-1045, as enacted by Laws of Utah 2022, Chapter 238

59-10-1402, as last amended by Laws of Utah 2022, Chapter 238

30 [59-10-1403](#), as last amended by Laws of Utah 2022, Chapter 238

31 [59-10-1403.2](#), as last amended by Laws of Utah 2022, Chapter 238

32 ENACTS:

33 [59-2-313.1](#), Utah Code Annotated 1953



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

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

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

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

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

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

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

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

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

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

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

50 (3) The commission may:

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

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

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

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

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

58 (b) counties in meeting the requirements of Section 59-2-303.1.

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

60 **59-10-114. Additions to and subtractions from adjusted gross income of an**
61 **individual.**

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

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

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

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

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

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

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

76 (B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

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

79 (ii) a disbursement required to be added to adjusted gross income in accordance with
80 Subsection 31A-32a-105(3); or

81 (iii) an amount required to be added to adjusted gross income in accordance with
82 Subsection 31A-32a-105(5)(c);

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

86 withdrawn from the account of the resident or nonresident individual who is the account
87 owner:

88 (i) is not expended for:

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

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

93 (ii) is:

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

95 (I) who is the account owner; and

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

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

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

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

104 (A) a state other than this state;

105 (B) the District of Columbia;

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

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

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

111 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a
112 resident trust of income that was taxed at the trust level for federal tax purposes, but was
113 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

114 (g) any distribution received by a resident beneficiary of a nonresident trust of
115 undistributed distributable net income realized by the trust on or after January 1, 2004, if that
116 undistributed distributable net income was taxed at the trust level for federal tax purposes, but
117 was not taxed at the trust level by any state, with undistributed distributable net income
118 considered to be distributed from the most recently accumulated undistributed distributable net
119 income;

120 (h) any adoption expense:

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

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

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

127 (B) from federal taxable income on a federal individual income tax return;

128 (i) the amount of tax paid on income attributed to the individual in accordance with
129 Subsection [59-10-1403.2\(2\)](#) that is not included in adjusted gross income; and

130 (j) the amount of tax paid:

131 (i) on income attributed to the individual and taxable in this state, that is not included
132 in adjusted gross income;

133 (ii) to another state; and

134 (iii) that the commission determines is substantially similar to the tax imposed under
135 Subsection [59-10-1403.2\(2\)](#).

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

138 (a) the difference between:

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

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

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

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

147 (b) if the conditions of Subsection (3)(a) are met, the amount of income derived by a
148 Ute tribal member:

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

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

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

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

155 (A) a state; or

156 (B) the District of Columbia; and

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

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

161 (i) paid:

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

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

165 (C) for the taxable year; and

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

169 (e) an amount:

- 170 (i) received by an enrolled member of an American Indian tribe; and
- 171 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
- 172 part on that amount in accordance with:
 - 173 (A) federal law;
 - 174 (B) a treaty; or
 - 175 (C) a final decision issued by a court of competent jurisdiction;
 - 176 (f) an amount received:
 - 177 (i) for the interest on a bond, note, or other obligation issued by an entity for which
 - 178 state statute provides an exemption of interest on its bonds from state individual income tax;
 - 179 (ii) by a resident or nonresident individual;
 - 180 (iii) for the taxable year; and
 - 181 (iv) to the extent the amount is included in adjusted gross income on the taxpayer's
 - 182 federal income tax return for the taxable year;
 - 183 (g) the amount of all income, including income apportioned to another state, of a
 - 184 nonmilitary spouse of an active duty military member if:
 - 185 (i) both the nonmilitary spouse and the active duty military member are nonresident
 - 186 individuals;
 - 187 (ii) the active duty military member is stationed in Utah;
 - 188 (iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec.
 - 189 4001(a)(2); and
 - 190 (iv) the income is included in adjusted gross income for federal income tax purposes
 - 191 for the taxable year;
 - 192 (h) for a taxable year beginning on or after January 1, 2019, but beginning on or before
 - 193 December 31, 2019, only:
 - 194 (i) the amount of any FDIC premium paid or incurred by the taxpayer that is
 - 195 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
 - 196 Revenue Code, on the taxpayer's 2018 federal income tax return; plus
 - 197 (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is

198 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal
199 Revenue Code, for the taxable year;

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

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

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

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

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

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

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

214 (i) the taxpayer is a Ute tribal member; and

215 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
216 requirements of this Subsection (3).

217 (b) The agreement described in Subsection (3)(a):

218 (i) may not:

219 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

220 (B) provide a subtraction under this section greater than or different from the
221 subtraction described in Subsection (2)(b); or

222 (C) affect the power of the state to establish rates of taxation; and

223 (ii) shall:

224 (A) provide for the implementation of the subtraction described in Subsection (2)(b);

225 (B) be in writing;

- 226 (C) be signed by:
- 227 (I) the governor; and
- 228 (II) the chair of the Business Committee of the Ute tribe;
- 229 (D) be conditioned on obtaining any approval required by federal law; and
- 230 (E) state the effective date of the agreement.

231 (c) (i) The governor shall report to the commission by no later than February 1 of each
232 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is
233 in effect.

234 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the
235 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or
236 after the January 1 following the termination of the agreement.

237 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,
238 Utah Administrative Rulemaking Act, the commission may make rules:

239 (i) for determining whether income is derived from a source within the Uintah and
240 Ouray Reservation; and

241 (ii) that are substantially similar to how adjusted gross income derived from Utah
242 sources is determined under Section [59-10-117](#).

243 (4) (a) For purposes of this Subsection (4), "Form 8814" means:

244 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's
245 Interest and Dividends; or

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

250 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter
251 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as
252 being substantially similar to 2000 Form 8814 if for purposes of federal individual income
253 taxes the information contained on 2000 Form 8814 is reported on a form other than Form

254 8814.

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

257 (i) the lesser of:

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

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

260 (I) the child's taxable interest;

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

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

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

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

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

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

274 (i) the entity; or

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

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

277 Section 3. Section **59-10-406** is amended to read:

278 **59-10-406. Collection and payment of tax -- Forms filed electronically.**

279 (1) (a) Each employer shall, on or before the last day of April, July, October, and
280 January, pay to the commission the amount required to be deducted and withheld from wages
281 paid to any employee during the preceding calendar quarter under this part.

282 (b) The commission may change the time or period for making reports and payments
283 if:

- 284 (i) in its opinion, the tax is in jeopardy; or
- 285 (ii) a different time or period will facilitate the collection and payment of the tax by the
286 employer.

287 (2) (a) Each employer shall file a return, in a form the commission prescribes, with
288 each payment of the amount deducted and withheld under this part showing:

- 289 (i) the total amount of wages paid to his employees;
- 290 (ii) the amount of federal income tax deducted and withheld;
- 291 (iii) the amount of tax under this part deducted and withheld; and
- 292 (iv) any other information the commission may require.

293 (b) The employer shall file the return described in Subsection (2)(a) in an electronic
294 format approved by the commission.

295 (3) (a) Each employer shall file an annual return, in a form the commission prescribes,
296 summarizing:

- 297 (i) the total compensation paid;
- 298 (ii) the federal income tax deducted and withheld; and
- 299 (iii) the state tax deducted and withheld for each employee during the calendar year.

300 (b) The return required by Subsection (3)(a) shall be filed with the commission:

- 301 (i) in an electronic format approved by the commission; and
- 302 (ii) on or before January 31 of the year following that for which the report is made.

303 (4) (a) Each employer shall also, in accordance with rules prescribed by the
304 commission, provide each employee from whom state income tax has been withheld with a
305 statement of the amounts of total compensation paid and the amounts deducted and withheld
306 for that employee during the preceding calendar year in accordance with this part.

307 (b) The statement shall be made available to each employee described in Subsection
308 (4)(a) on or before January 31 of the year following that for which the report is made.

309 (5) (a) The employer is liable to the commission for the payment of the tax required to

310 be deducted and withheld under this part.

311 (b) If an employer pays the tax required to be deducted and withheld under this part:

312 (i) an employee of the employer is not liable for the amount of any payment described
313 in Subsection (5)(a); and

314 (ii) the employer is not liable to any person or to any employee for the amount of any
315 such payment described in Subsection (5)(a).

316 (c) For the purpose of making penal provisions of this title applicable, any amount
317 deducted or required to be deducted and remitted to the commission under this part is
318 considered to be the tax of the employer and with respect to such amounts the employer is
319 considered to be the taxpayer.

320 (6) (a) Each employer that deducts and withholds any amount under this part shall hold
321 the amount in trust for the state for the payment of the amount to the commission in the manner
322 and at the time provided for in this part.

323 (b) So long as any delinquency continues, the state shall have a lien to secure the
324 payment of any amounts withheld, and not remitted as provided under this section, upon all of
325 the assets of the employer and all property owned or used by the employer in the conduct of the
326 employer's business, including stock-in-trade, business fixtures, and equipment.

327 (c) The lien described in Subsection (6)(b) shall be prior to any lien of any kind,
328 including existing liens for taxes.

329 (7) To the extent consistent with this section, the commission may use all the
330 provisions of this chapter relating to records, penalties, interest, deficiencies, redetermination
331 of deficiencies, overpayments, refunds, assessments, and venue to enforce this section.

332 (8) (a) Subject to Subsections (8)(b) and (c), the commission shall require an employer
333 that issues the following forms for a taxable year to file the forms with the commission in an
334 electronic format approved by the commission:

335 (i) a federal Form W-2;

336 (ii) a federal Form 1099 filed for purposes of withholding under Section [59-10-404](#); or

337 (iii) a federal form substantially similar to a form described in Subsection (8)(a)(i) or

338 (ii) if designated by the commission in accordance with Subsection (8)(d).

339 (b) An employer that is required to file a form with the commission in accordance with
340 Subsection (8)(a) shall file the form on or before January 31.

341 (c) An employer that is required to file a form with the commission in accordance with
342 Subsection (8)(a) shall provide:

343 (i) accurate information on the form; and

344 (ii) all of the information required by the Internal Revenue Service to be contained on
345 the form.

346 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
347 purposes of Subsection (8)(a), the commission may designate a federal form as being
348 substantially similar to a form described in Subsection (8)(a)(i) or (ii) if:

349 (i) for purposes of federal individual income taxes a different federal form contains
350 substantially similar information to a form described in Subsection (8)(a)(i) or (ii); or

351 (ii) the Internal Revenue Service replaces a form described in Subsection (8)(a)(i) or
352 (ii) with a different federal form.

353 (9) (a) Subject to Subsection (9)(b), a pass-through entity shall file with the
354 commission in an electronic format approved by the commission a [~~Utah Schedule K-1, or a~~
355 ~~substantially similar~~] form designated by the commission, providing information for each final
356 pass-through entity taxpayer of a pass-through entity that elected to pay a tax in accordance
357 with Subsection 59-10-1403.2(2).

358 (b) The pass-through entity shall file [~~a~~] the form described in Subsection (9)(a) [with
359 the pass-through entity's return.] on or before the last day of the pass-through entity's taxable
360 year.

361 Section 4. Section **59-10-1045** is amended to read:

362 **59-10-1045. Nonrefundable tax credit for taxes paid by pass-through entity.**

363 (1) As used in this section, "taxed pass-through entity taxpayer" means a resident or
364 nonresident individual who:

365 (a) has income attributed to the individual by a pass-through entity;

366 (b) receives the income described in Subsection (1)(a) after the pass-through entity
367 pays the tax described in Subsection 59-10-1403.2(2); and

368 (c) adds the amount of tax paid on the income described in Subsection (1)(a) to
369 adjusted gross income in accordance with Subsection 59-10-114(1)(i).

370 (2) (a) A taxed pass-through entity taxpayer may claim a nonrefundable tax credit for
371 the taxes imposed under Subsection 59-10-1403.2(2).

372 (b) The tax credit is equal to the amount of the tax paid under Subsection
373 59-10-1403.2(2) by the pass-through entity on the income attributed to the taxed pass-through
374 entity taxpayer.

375 (3) (a) A taxed pass-through entity taxpayer may carry forward the amount of the tax
376 credit that exceeds the taxed pass-through [entity's] entity taxpayer's tax liability for a period
377 that does not exceed the next five taxable years.

378 (b) A taxed pass-through entity taxpayer may not carry back the amount of the tax
379 credit that exceeds the taxed pass-through [entity's] entity taxpayer's tax liability for the taxable
380 year.

381 Section 5. Section 59-10-1402 is amended to read:

382 **59-10-1402. Definitions.**

383 As used in this part:

384 (1) "Addition, subtraction, or adjustment" means:

385 (a) for a pass-through entity taxpayer that is classified as a C corporation for federal
386 income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes:

387 (i) an addition to unadjusted income described in Section 59-7-105; or

388 (ii) a subtraction from unadjusted income described in Section 59-7-106;

389 (b) for a pass-through entity taxpayer that is classified as an individual, partnership, or
390 S corporation for federal income tax purposes:

391 (i) an addition to or subtraction from adjusted gross income described in Section
392 59-10-114; or

393 (ii) an adjustment to adjusted gross income described in Section 59-10-115; or

394 (c) for a pass-through entity taxpayer that is classified as an estate or a trust for federal
395 income tax purposes:

396 (i) an addition to or subtraction from unadjusted income described in Section
397 [59-10-202](#); or

398 (ii) an adjustment to unadjusted income described in Section [59-10-209.1](#).

399 (2) "Business income" means income arising from transactions and activity in the
400 regular course of a pass-through entity's trade or business and includes income from tangible
401 and intangible property if the acquisition, management, and disposition of the property
402 constitutes integral parts of the pass-through entity's regular trade or business operations.

403 (3) "C corporation" means the same as that term is defined in Section 1361, Internal
404 Revenue Code.

405 (4) "Commercial domicile" means the principal place from which the trade or business
406 of a business entity is directed or managed.

407 (5) "Dependent beneficiary" means an individual who:

408 (a) is claimed as a dependent under Section 151, Internal Revenue Code, on another
409 person's federal income tax return; and

410 (b) is a beneficiary of a trust that is a pass-through entity.

411 (6) "Derived from or connected with Utah sources" means:

412 (a) if a pass-through entity taxpayer is classified as a C corporation for federal income
413 tax purposes, derived from or connected with Utah sources in accordance with Chapter 7, Part
414 3, Allocation and Apportionment of Income - Utah UDITPA Provisions; or

415 (b) if a pass-through entity or pass-through entity taxpayer is classified as an estate,
416 individual, partnership, S corporation, or a trust for federal income tax purposes, derived from
417 or connected with Utah sources in accordance with Sections [59-10-117](#) and [59-10-118](#).

418 (7) (a) "Final pass-through entity taxpayer" means a pass-through entity taxpayer who
419 is a resident or nonresident individual.

420 (b) "Final pass-through entity taxpayer" does not include:

421 (i) a resident or nonresident business entity; or

422 (ii) a resident or nonresident estate or trust.

423 (8) "Nonbusiness income" means all income of a pass-through entity other than
424 business income.

425 (9) "Nonresident business entity" means a business entity that does not have its
426 commercial domicile in this state.

427 (10) "Nonresident pass-through entity taxpayer" means a pass-through entity taxpayer
428 that is a:

429 (a) nonresident individual; or

430 (b) nonresident business entity.

431 (11) "Pass-through entity" means a business entity that is:

432 (a) the following if classified as a partnership for federal income tax purposes:

433 (i) a general partnership;

434 (ii) a limited liability company;

435 (iii) a limited liability partnership; or

436 (iv) a limited partnership;

437 (b) an S corporation;

438 (c) an estate or trust with respect to which the estate's or trust's income, gain, loss,
439 deduction, or credit is divided among and passed through to one or more pass-through entity
440 taxpayers; or

441 (d) a business entity similar to Subsections (11)(a) through (c):

442 (i) with respect to which the business entity's income, gain, loss, deduction, or credit is
443 divided among and passed through to one or more pass-through entity taxpayers; and

444 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter
445 3, Utah Administrative Rulemaking Act.

446 (12) "Pass-through entity taxpayer" means a resident or nonresident individual, a
447 resident or nonresident business entity, or a resident or nonresident estate or trust:

448 (a) that is:

449 (i) for a general partnership, a partner;

- 450 (ii) for a limited liability company, a member;
- 451 (iii) for a limited liability partnership, a partner;
- 452 (iv) for a limited partnership, a partner;
- 453 (v) for an S corporation, a shareholder;
- 454 (vi) for an estate or trust described in Subsection(11)(c), a beneficiary; or
- 455 (vii) for a business entity described in Subsection(11)(d), a member, partner,
- 456 shareholder, or other title designated by the commission by rule made in accordance with Title
- 457 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- 458 (b) to which the income, gain, loss, deduction, or credit of a pass-through entity is
- 459 passed through.
- 460 (13) "Resident business entity" means a business entity that is not a nonresident
- 461 business entity.
- 462 (14) "Resident pass-through entity taxpayer" means a pass-through entity taxpayer that
- 463 is a:
- 464 (a) resident individual; or
- 465 (b) resident business entity.
- 466 (15) "Return" means a return that a pass-through entity taxpayer files:
- 467 (a) for a pass-through entity taxpayer that is classified as a C corporation for federal
- 468 income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes; or
- 469 (b) for a pass-through entity taxpayer that is classified as an estate, individual,
- 470 partnership, S corporation, or a trust for federal income tax purposes, under this chapter.
- 471 (16) "S corporation" means the same as that term is defined in Section 1361, Internal
- 472 Revenue Code.
- 473 (17) "Share of income, gain, loss, deduction, or credit of a pass-through entity" means:
- 474 (a) for a pass-through entity except for a pass-through entity that is an S corporation:
- 475 (i) for a resident pass-through entity taxpayer, the resident pass-through entity
- 476 taxpayer's distributive share of income, gain, loss, deduction, or credit of the pass-through
- 477 entity as determined under Section 704 et seq., Internal Revenue Code; and

478 (ii) for a nonresident pass-through entity taxpayer, the nonresident pass-through entity
479 taxpayer's distributive share of income, gain, loss, deduction, or credit of the pass-through
480 entity:

481 (A) as determined under Section 704 et seq., Internal Revenue Code; and

482 (B) derived from or connected with Utah sources; or

483 (b) for an S corporation:

484 (i) for a resident pass-through entity taxpayer, the resident pass-through entity
485 taxpayer's pro rata share of income, gain, loss, deduction, or credit of the S corporation, as
486 determined under Sec. 1366 et seq., Internal Revenue Code; or

487 (ii) for a nonresident pass-through entity taxpayer, the nonresident pass-through entity
488 taxpayer's pro rata share of income, gain, loss, deduction, or credit of the S corporation:

489 (A) as determined under Section 1366 et seq., Internal Revenue Code; and

490 (B) derived from or connected with Utah sources.

491 (18) "Statement of dependent beneficiary income" means a statement:

492 (a) signed by the person who claims a dependent beneficiary as a dependent under
493 Section 151, Internal Revenue Code, on the person's federal income tax return for the taxable
494 year;

495 (b) attesting that the dependent is a dependent beneficiary; and

496 (c) indicating that the person expects that the dependent beneficiary's adjusted gross
497 income for the taxable year will not exceed the basic standard deduction for the dependent
498 beneficiary, as calculated under Section 63, Internal Revenue Code, for that taxable year.

499 (19) "Voluntary taxable income" means the sum of a pass-through entity's income that
500 is:

501 (a) attributed to a final pass-through entity taxpayer who is a resident individual unless
502 the income is taxed by another state of the United States, the District of Columbia, or
503 possession of the United States; and

504 (b) (i) business income and nonbusiness income that is derived from or connected with
505 Utah sources; and

506 (ii) attributed to a final pass-through entity taxpayer who is a nonresident individual.

507 Section 6. Section 59-10-1403 is amended to read:

508 **59-10-1403. Income tax treatment of a pass-through entity -- Returns --**

509 **Classification same as under Internal Revenue Code.**

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

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

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

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

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

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

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

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

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

533 (ii) an amended state income tax return that conforms with the changes made in the

534 pass-through entity's amended federal income tax return.

535 Section 7. Section **59-10-1403.2** is amended to read:

536 **59-10-1403.2. Pass-through entity payment or withholding of tax on behalf of a**
537 **pass-through entity taxpayer -- Exceptions to payment or withholding requirement --**
538 **Procedures and requirements -- Failure to pay or withhold a tax on behalf of a**
539 **pass-through entity taxpayer.**

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

542 (i) on:

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

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

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

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

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

550 (ii) if the pass-through entity is an organization exempt from taxation under Subsection
551 **59-7-102(1)(a)**;

552 (iii) if the pass-through entity:

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

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

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

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

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

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

562 (I) the partner's name;
563 (II) the partner's address;
564 (III) the partner's taxpayer identification number; and
565 (IV) other information required by the commission; or
566 (v) on behalf of a final pass-through entity taxpayer that is a nonresident individual if
567 the pass-through entity pays the tax described in Subsection (2).

568 (2) (a) For each taxable year that begins on or after January 1, 2022, but begins on or
569 before December 31, 2025, a pass-through entity that is not a disregarded pass-through entity
570 may elect to pay a tax in an amount equal to the product of:

- 571 (i) the percentage listed in Subsection 59-10-104(2); and
- 572 (ii) voluntary taxable income.

573 (b) A pass-through entity that elects to pay the tax in accordance with Subsection (2)(a)
574 shall notify any final pass-through entity taxpayer of that election.

575 (c) A pass-through entity that pays a tax described in Subsection (2)(a) shall provide to
576 each final pass-through entity taxpayer a statement that states:

577 (i) the amount of tax paid under Subsection (2)(a) on the income attributed to the final
578 pass-through entity taxpayer[-]; and

579 (ii) the amount of tax paid to another state by the pass-through entity on income:

580 (A) attributed to the final pass-through entity taxpayer; and

581 (B) that the commission determines is substantially similar to the tax under Subsection
582 (2)(a).

583 (d) A payment of the tax described in Subsection (2)(a) on or before the last day of the
584 taxable year:

585 (i) is an irrevocable election to be subject to the tax for the taxable year; and [-]

586 (ii) may not be refunded.

587 (3) (a) Subject to Subsection (3)(b), the tax a pass-through entity shall pay or withhold
588 on behalf of a pass-through entity taxpayer for a taxable year is an amount:

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

590 3, Utah Administrative Rulemaking Act; and

591 (ii) that the commission estimates will be sufficient to pay the tax liability of the
592 pass-through entity taxpayer under this chapter with respect to the income described in
593 Subsection (1)(a)(i) or (2)(a)(ii) of that pass-through entity for the taxable year.

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

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

596 (A) shall:

597 (I) for a pass-through entity except for a pass-through entity that is an S corporation,
598 take into account items of income, gain, loss, deduction, and credit as analyzed on the schedule
599 for reporting partners' distributive share items as part of the federal income tax return for the
600 pass-through entity; or

601 (II) for a pass-through entity that is an S corporation, take into account items of
602 income, gain, loss, deduction, and credit as reconciled on the schedule for reporting
603 shareholders' pro rata share items as part of the federal income tax return for the pass-through
604 entity; and

605 (B) notwithstanding Subsection (3)(b)(ii)(D), take into account the refundable tax
606 credit provided in Section 59-6-102; and

607 (ii) may not take into account the following items if taking those items into account
608 does not result in an accurate estimate of a pass-through entity taxpayer's tax liability under this
609 chapter for the taxable year:

610 (A) a capital loss;

611 (B) a passive loss;

612 (C) another item of deduction or loss if that item of deduction or loss is generally
613 subject to significant reduction or limitation in calculating:

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

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

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

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

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

622 (II) this chapter.

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

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

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

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

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

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

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

642 (c) The commission shall consider only the amount of tax remitted as provided in
643 Subsection (4)(b), on or before the last day of the pass-through entity's taxable year as a
644 payment described in Subsection (2).

645 (d) Except as provided in Subsection (1)(b), a pass-through entity that files an amended

646 return under this part shall pay or withhold tax on any increase in the income described in
647 Subsection (1)(a)(i) on behalf of the pass-through entity taxpayer and remit that tax to the
648 commission.

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

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

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

658 (b) the pass-through entity taxpayer:

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

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

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

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

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

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

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

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

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

675 or

676 (ii) (A) the dependent beneficiary's adjusted gross income for the taxable year does not
677 exceed the basic standard deduction for the dependent beneficiary, as calculated under Section
678 63, Internal Revenue Code, for that taxable year; and

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

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

687 Section 8. **Retrospective operation.**

688 (1) The following sections have retrospective operation for a taxable year beginning on
689 or after January 1, 2022:

690 (a) Section 59-10-1403; and

691 (b) Section 59-10-1403.2.