

**TAX MODIFICATIONS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Revenue and Taxation title to address penalties, the payment of taxes, and estimated tax payments for income tax purposes.

**Highlighted Provisions:**

This bill:

- ▶ modifies penalties related to certain taxes;
- ▶ provides that a person is not required to recalculate a tax for purposes of making an installment payment under certain circumstances;
- ▶ addresses the amount of income tax required to be paid to avoid a penalty if a person makes estimated tax payments and receives an extension of time to file a return;
- ▶ enacts estimated tax payment requirements under Title 59, Chapter 10, Individual Income Tax Act, including:
  - defining terms;
  - establishing a required annual payment;
  - establishing procedures and requirements for making an estimated tax payment;
  - providing a penalty for failure to pay or underpaying an estimated tax payment;
  - authorizing the State Tax Commission to waive, reduce, or compromise the penalty for failure to pay or underpaying an estimated tax payment;
  - granting rulemaking authority to the State Tax Commission under certain



28 circumstances; and

29 • requiring the State Tax Commission to summarize the estimated tax payment  
30 provisions in a conspicuous place on the State Tax Commission's website; and

31 ▶ makes technical and conforming changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 This bill provides effective dates.

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **59-1-401**, as last amended by Laws of Utah 2010, Chapter 233

39 **59-1-1408**, as enacted by Laws of Utah 2009, Chapter 212

40 **59-5-107**, as last amended by Laws of Utah 2003, Chapter 274

41 **59-5-207**, as last amended by Laws of Utah 1995, Chapter 228

42 **59-7-504**, as last amended by Laws of Utah 1995, Chapter 311

43 **59-7-507**, as last amended by Laws of Utah 2007, Chapter 269

44 **59-9-104**, as last amended by Laws of Utah 1995, Chapter 205

45 **59-10-516**, as last amended by Laws of Utah 2010, Chapter 271

46 ENACTS:

47 **59-10-1501**, Utah Code Annotated 1953

48 **59-10-1502**, Utah Code Annotated 1953

49 **59-10-1503**, Utah Code Annotated 1953

50 **59-10-1504**, Utah Code Annotated 1953

51 **59-10-1505**, Utah Code Annotated 1953

52 **59-10-1506**, Utah Code Annotated 1953



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

55 Section 1. Section **59-1-401** is amended to read:

56 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**  
57 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**  
58 **interest.**

59 (1) As used in this section:

60 (a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the  
61 commission:

62 (i) has implemented the commission's GenTax system; and

63 (ii) at least 30 days before implementing the commission's GenTax system as described  
64 in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website  
65 stating:

66 (A) the date the commission will implement the GenTax system with respect to the tax,  
67 fee, or charge; and

68 (B) that, at the time the commission implements the GenTax system with respect to the  
69 tax, fee, or charge:

70 (I) a person that files a return after the due date as described in Subsection (2)(a) is  
71 subject to the penalty described in Subsection (2)(c)(ii); and

72 (II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is  
73 subject to the penalty described in Subsection (3)(b)(ii).

74 (b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or  
75 charge, the later of:

76 (i) the date on which the commission implements the commission's GenTax system  
77 with respect to the tax, fee, or charge; or

78 (ii) 30 days after the date the commission provides the notice described in Subsection  
79 (1)(a)(ii) with respect to the tax, fee, or charge.

80 (c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

81 (A) a tax, fee, or charge the commission administers under:

82 (I) this title;

83 (II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

84 (III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

85 (IV) Section 19-6-410.5;

86 (V) Section 19-6-714;

87 (VI) Section 19-6-805;

88 (VII) Section 34A-2-202;

89 (VIII) Section 40-6-14;

- 90 (IX) Section 69-2-5;
- 91 (X) Section 69-2-5.5; or
- 92 (XI) Section 69-2-5.6; or
- 93 (B) another amount that by statute is subject to a penalty imposed under this section.
- 94 (ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
  - 95 (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
  - 96 (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
  - 97 (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
  - 98 (D) Chapter 3, Tax Equivalent Property Act; or
  - 99 (E) Chapter 4, Privilege Tax.
- 100 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated
- 101 tax, fee, or charge.
- 102 (2) (a) The due date for filing a return is:
  - 103 (i) if the person filing the return is not allowed by law an extension of time for filing
  - 104 the return, the day on which the return is due as provided by law; or
  - 105 (ii) if the person filing the return is allowed by law an extension of time for filing the
  - 106 return, the earlier of:
    - 107 (A) the date the person files the return; or
    - 108 (B) the last day of that extension of time as allowed by law.
  - 109 (b) A penalty in the amount described in Subsection (2)(c) is imposed if:
    - 110 (i) a person files a return after the due date described in Subsection (2)(a)[-]; or
    - 111 (ii) a person fails to file a return and the commission estimates a tax, fee, or charge in
    - 112 accordance with Section 59-1-1406.
  - 113 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:
    - 114 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated
    - 115 tax, fee, or charge:
      - 116 (A) \$20; or
      - 117 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
    - 118 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,
    - 119 fee, or charge, beginning on the activation date for the tax, fee, or charge:
      - 120 (A) \$20; or

121 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is  
122 filed no later than five days after the due date described in Subsection (2)(a);

123 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed  
124 more than five days after the due date but no later than 15 days after the due date described in  
125 Subsection (2)(a); or

126 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is  
127 filed more than 15 days after the due date described in Subsection (2)(a).

128 (d) This Subsection (2) does not apply to:

129 (i) an amended return; or

130 (ii) a return with no tax due.

131 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:

132 (i) the person files a return on or before the due date for filing a return described in  
133 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due  
134 date;

135 (ii) the person:

136 (A) is subject to a penalty under Subsection (2)(b); and

137 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the  
138 due date for filing a return described in Subsection (2)(a);

139 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and

140 (B) the commission estimates an amount of tax due for that person in accordance with  
141 Subsection 59-1-1406(2);

142 (iv) the person:

143 (A) is mailed a notice of deficiency; and

144 (B) within a 30-day period after the day on which the notice of deficiency described in  
145 Subsection (3)(a)(iv)(A) is mailed:

146 (I) does not file a petition for redetermination or a request for agency action; and

147 (II) fails to pay the tax, fee, or charge due on a return;

148 (v) (A) the commission:

149 (I) issues an order constituting final agency action resulting from a timely filed petition  
150 for redetermination or a timely filed request for agency action; or

151 (II) is considered to have denied a request for reconsideration under Subsection

152 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed  
153 request for agency action; and

154 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period  
155 after the date the commission:

156 (I) issues the order constituting final agency action described in Subsection  
157 (3)(a)(v)(A)(I); or

158 (II) is considered to have denied the request for reconsideration described in  
159 Subsection (3)(a)(v)(A)(II); or

160 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date  
161 of a final judicial decision resulting from a timely filed petition for judicial review.

162 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

163 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with  
164 respect to an unactivated tax, fee, or charge:

165 (A) \$20; or

166 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; ~~or~~

167 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with  
168 respect to an activated tax, fee, or charge except for a tax imposed under Chapter 7, Corporate  
169 Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, beginning on the  
170 activation date:

171 (A) \$20; or

172 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated  
173 tax, fee, or charge due on the return is paid no later than five days after the due date for filing a  
174 return described in Subsection (2)(a);

175 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax,  
176 fee, or charge due on the return is paid more than five days after the due date for filing a return  
177 described in Subsection (2)(a) but no later than 15 days after that due date; or

178 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated  
179 tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a  
180 return described in Subsection (2)(a)~~]; or~~

181 (iii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with  
182 respect to a tax imposed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter

183 10, Individual Income Tax Act:

184 (A) \$20 if the tax due on the return is paid in full after the original due date for filing  
185 the return under Section 59-7-505 or 59-10-514, without extensions; or

186 (B) the lesser of 25% of the unpaid tax due on the return or 0.5% of the unpaid tax per  
187 month for the number of months, as determined in accordance with Subsection (3)(c), that the  
188 unpaid tax due on the return is not paid in full.

189 (c) For purposes of determining the penalty under Subsection (3)(b)(iii)(B), the number  
190 of months shall be calculated by:

191 (i) determining the number of months the unpaid tax due on the return is not paid in  
192 full, beginning with the original due date for filing the return under Section 59-7-505 or  
193 59-10-514, without extensions, and ending on the date the unpaid tax is paid in full; and

194 (ii) including any fraction of a month as a full month.

195 (4) (a) ~~[Beginning January 1, 1995, in the case of any underpayment of]~~ If a person  
196 underpays an estimated tax or quarterly ~~[installments]~~ payment or installment required by  
197 ~~[Sections]~~ Section 59-5-107, 59-5-207, 59-7-504, ~~[and]~~ 59-9-104, or 59-10-1503, there shall be  
198 added a penalty in an amount determined by applying the interest rate provided under ~~[Section]~~  
199 Subsection 59-1-402(2) plus ~~[four]~~ three percentage points to the amount of the underpayment  
200 for the period of the underpayment.

201 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the  
202 excess of the required installment over the amount, if any, of the installment paid on or before  
203 the due date for the installment.

204 (ii) The period of the underpayment shall run from the due date for the installment to  
205 whichever of the following dates is the earlier:

206 (A) the original due date of the tax return, without extensions, for the taxable year; or

207 (B) with respect to any portion of the underpayment, the date on which that portion is  
208 paid.

209 (iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited  
210 against unpaid required installments in the order in which the installments are required to be  
211 paid.

212 ~~[(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a~~  
213 ~~person allowed by law an extension of time for filing a corporate franchise or income tax return~~

214 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return  
215 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in  
216 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not  
217 including the extension of time, the person fails to pay:]

218 [(i) for a person filing a corporate franchise or income tax return under Chapter 7,  
219 Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b);  
220 or]

221 [(ii) for a person filing an individual income tax return under Chapter 10, Individual  
222 Income Tax Act, the payment required by Subsection 59-10-516(2).]

223 [(b) For purposes of Subsection (5)(a), the penalty per month during the period of the  
224 extension of time for filing the return is an amount equal to 2% of the tax due on the return,  
225 unpaid as of the day on which the return is due as provided by law.]

226 [(6) If a person does not file a return within an extension of time allowed by Section  
227 59-7-505 or 59-10-516, the person:]

228 [(a) is not subject to a penalty in the amount described in Subsection (5)(b); and]

229 [(b) is subject to a penalty in an amount equal to the sum of:]

230 [(i) a late file penalty in an amount equal to the greater of:]

231 [(A) \$20; or]

232 [(B) 10% of the tax due on the return, unpaid as of the day on which the return is due  
233 as provided by law, not including the extension of time; and]

234 [(ii) a late pay penalty in an amount equal to the greater of:]

235 [(A) \$20; or]

236 [(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return  
237 is due as provided by law, not including the extension of time.]

238 [(7)] (5) (a) Additional penalties for an underpayment of a tax, fee, or charge are as  
239 provided in this Subsection [(7)] (5)(a).

240 (i) Except as provided in Subsection [(7)] (5)(c), if any portion of an underpayment of  
241 a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment  
242 that is due to negligence.

243 (ii) Except as provided in Subsection [(7)] (5)(d), if any portion of an underpayment of  
244 a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the



245 entire underpayment.

246 (iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge,  
247 the penalty is the greater of \$500 per period or 50% of the entire underpayment.

248 (iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or  
249 charge, the penalty is the greater of \$500 per period or 100% of the entire underpayment.

250 (b) If the commission determines that a person is liable for a penalty imposed under  
251 Subsection [~~(7)~~] (5)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed  
252 penalty.

253 (i) The notice of proposed penalty shall:

254 (A) set forth the basis of the assessment; and

255 (B) be mailed by certified mail, postage prepaid, to the person's last-known address.

256 (ii) Upon receipt of the notice of proposed penalty, the person against whom the  
257 penalty is proposed may:

258 (A) pay the amount of the proposed penalty at the place and time stated in the notice;

259 or

260 (B) proceed in accordance with the review procedures of Subsection [~~(7)~~] (5)(b)(iii).

261 (iii) A person against whom a penalty is proposed in accordance with this Subsection  
262 [~~(7)~~] (5) may contest the proposed penalty by filing a petition for an adjudicative proceeding  
263 with the commission.

264 (iv) (A) If the commission determines that a person is liable for a penalty under this  
265 Subsection [~~(7)~~] (5), the commission shall assess the penalty and give notice and demand for  
266 payment.

267 (B) The commission shall mail the notice and demand for payment described in  
268 Subsection [~~(7)~~] (5)(b)(iv)(A):

269 (I) to the person's last-known address; and

270 (II) in accordance with Section 59-1-1404.

271 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not  
272 subject to the penalty under Subsection [~~(7)~~] (5)(a)(i) if on or after July 1, 2001:

273 (i) a court of competent jurisdiction issues a final unappealable judgment or order  
274 determining that:

275 (A) the seller meets one or more of the criteria described in Subsection

276 59-12-107(1)(a); and

277 (B) the commission or a county, city, or town may require the seller to collect a tax  
278 under Subsections 59-12-103(2)(a) through (d); or

279 (ii) the commission issues a final unappealable administrative order determining that:

280 (A) the seller meets one or more of the criteria described in Subsection  
281 59-12-107(1)(a); and

282 (B) the commission or a county, city, or town may require the seller to collect a tax  
283 under Subsections 59-12-103(2)(a) through (d).

284 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not  
285 subject to the penalty under Subsection [~~(7)~~] (5)(a)(ii) if:

286 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order  
287 determining that:

288 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a);  
289 and

290 (II) the commission or a county, city, or town may require the seller to collect a tax  
291 under Subsections 59-12-103(2)(a) through (d); or

292 (B) the commission issues a final unappealable administrative order determining that:

293 (I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a);  
294 and

295 (II) the commission or a county, city, or town may require the seller to collect a tax  
296 under Subsections 59-12-103(2)(a) through (d); and

297 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a  
298 nonfrivolous argument for the extension, modification, or reversal of existing law or the  
299 establishment of new law.

300 [~~(8)~~] (6) The penalty for failure to file an information return, information report, or a  
301 complete supporting schedule is \$50 for each information return, information report, or  
302 supporting schedule up to a maximum of \$1,000.

303 [~~(9)~~] (7) If a person, in furtherance of a frivolous position, has a prima facie intent to  
304 delay or impede administration of a law relating to a tax, fee, or charge and files a purported  
305 return that fails to contain information from which the correctness of reported tax, fee, or  
306 charge liability can be determined or that clearly indicates that the tax, fee, or charge liability

307 shown is substantially incorrect, the penalty is \$500.

308 ~~[(10)]~~ (8) (a) A seller that fails to remit a tax, fee, or charge monthly as required by  
309 Subsection 59-12-108(1)(a):

310 (i) is subject to a penalty described in Subsection (2); and

311 (ii) may not retain the percentage of sales and use taxes that would otherwise be  
312 allowable under Subsection 59-12-108(2).

313 (b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as  
314 required by Subsection 59-12-108(1)(a)(ii)(B):

315 (i) is subject to a penalty described in Subsection (2); and

316 (ii) may not retain the percentage of sales and use taxes that would otherwise be  
317 allowable under Subsection 59-12-108(2).

318 ~~[(11)]~~ (9) (a) A person is subject to the penalty provided in Subsection ~~[(11)]~~ (9)(c) if  
319 that person:

320 (i) commits an act described in Subsection ~~[(11)]~~ (9)(b) with respect to one or more of  
321 the following documents:

322 (A) a return;

323 (B) an affidavit;

324 (C) a claim; or

325 (D) a document similar to Subsections ~~[(11)]~~ (9)(a)(i)(A) through (C);

326 (ii) knows or has reason to believe that the document described in Subsection ~~[(11)]~~  
327 (9)(a)(i) will be used in connection with any material matter administered by the commission;  
328 and

329 (iii) knows that the document described in Subsection ~~[(11)]~~ (9)(a)(i), if used in  
330 connection with any material matter administered by the commission, would result in an  
331 understatement of another person's liability for a tax, fee, or charge.

332 (b) The following acts apply to Subsection ~~[(11)]~~ (9)(a)(i):

333 (i) preparing any portion of a document described in Subsection ~~[(11)]~~ (9)(a)(i);

334 (ii) presenting any portion of a document described in Subsection ~~[(11)]~~ (9)(a)(i);

335 (iii) procuring any portion of a document described in Subsection ~~[(11)]~~ (9)(a)(i);

336 (iv) advising in the preparation or presentation of any portion of a document described  
337 in Subsection ~~[(11)]~~ (9)(a)(i);

338 (v) aiding in the preparation or presentation of any portion of a document described in  
339 Subsection ~~[(11)]~~ (9)(a)(i);

340 (vi) assisting in the preparation or presentation of any portion of a document described  
341 in Subsection ~~[(11)]~~ (9)(a)(i); or

342 (vii) counseling in the preparation or presentation of any portion of a document  
343 described in Subsection ~~[(11)]~~ (9)(a)(i).

344 (c) For purposes of Subsection ~~[(11)]~~ (9)(a), the penalty:

345 (i) shall be imposed by the commission;

346 (ii) is \$500 for each document described in Subsection ~~[(11)]~~ (9)(a)(i) with respect to  
347 which the person described in Subsection ~~[(11)]~~ (9)(a) meets the requirements of Subsection  
348 ~~[(11)]~~ (9)(a); and

349 (iii) is in addition to any other penalty provided by law.

350 (d) The commission may seek a court order to enjoin a person from engaging in  
351 conduct that is subject to a penalty under this Subsection ~~[(11)]~~ (9).

352 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
353 commission may make rules prescribing the documents that are similar to Subsections ~~[(11)]~~  
354 (9)(a)(i)(A) through (C).

355 ~~[(12)]~~ (10) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as  
356 provided in Subsections ~~[(12)]~~ (10)(b) through (e).

357 (b) (i) A person who is required by this title or any laws the commission administers or  
358 regulates to register with or obtain a license or permit from the commission, who operates  
359 without having registered or secured a license or permit, or who operates when the registration,  
360 license, or permit is expired or not current, is guilty of a class B misdemeanor.

361 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the  
362 penalty may not:

363 (A) be less than \$500; or

364 (B) exceed \$1,000.

365 (c) (i) A person who, with intent to evade a tax, fee, or charge or requirement of this  
366 title or any lawful requirement of the commission, fails to make, render, sign, or verify a return  
367 or to supply information within the time required by law, or who makes, renders, signs, or  
368 verifies a false or fraudulent return or statement, or who supplies false or fraudulent

369 information, is guilty of a third degree felony.

370 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection [~~(12)~~] (10)(c)(i), the  
371 penalty may not:

372 (A) be less than \$1,000; or

373 (B) exceed \$5,000.

374 (d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or  
375 charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law,  
376 guilty of a second degree felony.

377 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection [~~(12)~~] (10)(d)(i), the  
378 penalty may not:

379 (A) be less than \$1,500; or

380 (B) exceed \$25,000.

381 (e) (i) A person is guilty of a second degree felony if that person commits an act:

382 (A) described in Subsection [~~(12)~~] (10)(e)(ii) with respect to one or more of the  
383 following documents:

384 (I) a return;

385 (II) an affidavit;

386 (III) a claim; or

387 (IV) a document similar to Subsections [~~(12)~~] (10)(e)(i)(A)(I) through (III); and

388 (B) subject to Subsection [~~(12)~~] (10)(e)(iii), with knowledge that the document  
389 described in Subsection [~~(12)~~] (10)(e)(i)(A):

390 (I) is false or fraudulent as to any material matter; and

391 (II) could be used in connection with any material matter administered by the  
392 commission.

393 (ii) The following acts apply to Subsection [~~(12)~~] (10)(e)(i):

394 (A) preparing any portion of a document described in Subsection [~~(12)~~] (10)(e)(i)(A);

395 (B) presenting any portion of a document described in Subsection [~~(12)~~] (10)(e)(i)(A);

396 (C) procuring any portion of a document described in Subsection [~~(12)~~] (10)(e)(i)(A);

397 (D) advising in the preparation or presentation of any portion of a document described  
398 in Subsection [~~(12)~~] (10)(e)(i)(A);

399 (E) aiding in the preparation or presentation of any portion of a document described in

400 Subsection [~~(12)~~] (10)(e)(i)(A);  
401 (F) assisting in the preparation or presentation of any portion of a document described  
402 in Subsection [~~(12)~~] (10)(e)(i)(A); or  
403 (G) counseling in the preparation or presentation of any portion of a document  
404 described in Subsection [~~(12)~~] (10)(e)(i)(A).  
405 (iii) This Subsection [~~(12)~~] (10)(e) applies:  
406 (A) regardless of whether the person for which the document described in Subsection  
407 (12)(e)(i)(A) is prepared or presented:  
408 (I) knew of the falsity of the document described in Subsection [~~(12)~~] (10)(e)(i)(A); or  
409 (II) consented to the falsity of the document described in Subsection [~~(12)~~]  
410 (10)(e)(i)(A); and  
411 (B) in addition to any other penalty provided by law.  
412 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection [~~(12)~~] (10)(e),  
413 the penalty may not:  
414 (A) be less than \$1,500; or  
415 (B) exceed \$25,000.  
416 (v) The commission may seek a court order to enjoin a person from engaging in  
417 conduct that is subject to a penalty under this Subsection [~~(12)~~] (10)(e).  
418 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
419 the commission may make rules prescribing the documents that are similar to Subsections  
420 [~~(12)~~] (10)(e)(i)(A)(I) through (III).  
421 (f) The statute of limitations for prosecution for a violation of this Subsection [~~(12)~~]  
422 (10) is the later of six years:  
423 (i) from the date the tax should have been remitted; or  
424 (ii) after the day on which the person commits the criminal offense.  
425 [~~(13)~~] (11) Upon making a record of its actions, and upon reasonable cause shown, the  
426 commission may waive, reduce, or compromise any of the penalties or interest imposed under  
427 this part.  
428 Section 2. Section **59-1-1408** is amended to read:  
429 **59-1-1408. Assessments.**  
430 (1) Except as provided in Subsections (2) through (4), an assessment is made on the

431 date a liability is posted to the records of the commission.

432 (2) Except as provided in Subsection (4), for purposes of a liability for which the  
433 commission mails a notice of deficiency to a person in accordance with Section 59-1-1405, an  
434 assessment is made:

435 (a) if a person has not filed a petition for redetermination of a deficiency under Section  
436 59-1-501, on the date:

437 (i) (A) 30 days after the day on which the commission mails the notice of deficiency to  
438 the person; or

439 (B) 90 days after the day on which the commission mails the notice of deficiency to the  
440 person if the notice is addressed to a person outside the United States or the District of  
441 Columbia; or

442 (ii) the person in writing:

443 (A) agrees with the commission on the existence and amount of the liability; and

444 (B) consents to the assessment of the liability; or

445 (b) if a person files a petition for redetermination of a deficiency under Section  
446 59-1-501, on the date the liability resulting from a final commission decision is posted to the  
447 records of the commission.

448 (3) Except as provided in Subsection (4), for purposes of a notice of proposed penalty  
449 under Section 59-1-302 or Subsection 59-1-401[~~(7)~~](5), an assessment is made:

450 (a) if a person has not filed a petition for redetermination of a deficiency under Section  
451 59-1-501, on the date:

452 (i) (A) 30 days after the day on which the commission mails the notice of proposed  
453 penalty to the person; or

454 (B) 90 days after the day on which the commission mails the notice of proposed  
455 penalty to the person if the notice is addressed to a person outside the United States or the  
456 District of Columbia; or

457 (ii) the person in writing:

458 (A) agrees with the commission on the existence and amount of the liability; and

459 (B) consents to the assessment of the liability; or

460 (b) if a person files a petition for redetermination of a deficiency under Section  
461 59-1-501, on the date the liability resulting from a final commission decision is posted to the

462 records of the commission.

463 (4) In the case of interest under Section 59-1-402 that accrues to a tax, fee, or charge,  
464 an assessment is considered to have been made on the date the tax, fee, or charge is assessed.

465 (5) The commission may at any time within the time period prescribed for assessment  
466 under Section 59-1-1410, increase or decrease an assessment if the commission ascertains that  
467 the assessment is imperfect or incomplete in a material respect.

468 Section 3. Section **59-5-107** is amended to read:

469 **59-5-107. Date tax due -- Extensions -- Installment payments -- Penalty on**  
470 **delinquencies -- Audit.**

471 (1) Except as provided in Subsections (2) and (3), the tax imposed by this part is due  
472 and payable on or before June 1 of the year next succeeding the calendar year when the oil or  
473 gas is:

474 (a) (i) produced;

475 (ii) saved; and

476 (iii) sold; or

477 (b) transported from the field where produced.

478 (2) (a) Notwithstanding Subsection (1), the commission may, for good cause shown  
479 upon a written application by the taxpayer, extend the time of payment of the whole or any part  
480 of the tax for a period not to exceed six months.

481 (b) If the commission allows an extension under Subsection (2)(a), interest at the rate  
482 and in the manner prescribed in Section 59-1-402 shall be charged and added to the amount of  
483 the tax allowed the extension.

484 (3) (a) A taxpayer subject to this part whose total tax obligation for the current calendar  
485 year will be \$3,000 or more shall pay the taxes assessed under this part in quarterly  
486 installments as provided in Subsections (3)(b) and (4).

487 (b) For purposes of Subsection (3)(a), each quarterly installment shall be based on the  
488 estimated gross value received by the taxpayer during the quarter preceding the date on which  
489 the installment is due.

490 (4) For purposes of Subsection (3), the quarterly installments are due as follows:

491 (a) for the quarter beginning on January 1 and ending on March 31, on or before June  
492 1;



493 (b) for the quarter beginning on April 1 and ending on June 30, on or before September  
494 1;

495 (c) for the quarter beginning on July 1 and ending on September 30, on or before  
496 December 1; and

497 (d) for the quarter beginning on October 1 and ending on December 31, on or before  
498 March 1 of the next year.

499 (5) If a taxpayer files an amended return under this part after the original due date for  
500 filing the return, not including extensions, the taxpayer is not required to recalculate the  
501 taxpayer's taxes assessed under this part for purposes of calculating quarterly installments due  
502 under this section.

503 [~~(5)~~] (6) (a) Subject to Subsection [~~(5)~~] (6)(b) and except as provided in Subsection  
504 [~~(6)~~] (7), if the tax imposed by Section 59-5-102 is not paid when due or is underpaid, the  
505 taxpayer is subject to the penalty provided under Section 59-1-401.

506 (b) For purposes of Subsection [~~(5)~~] (6)(a), an underpayment exists if less than 80% of  
507 the tax due for a quarter is paid.

508 [~~(6)~~] (7) Notwithstanding Subsection [~~(5)~~] (6)(a), the penalty for failure to pay a tax  
509 due or for underpayment of a tax may not be assessed if the taxpayer's total quarterly tax  
510 installment payments equal 25% or more of the tax reported and paid by the taxpayer for the  
511 preceding calendar year.

512 [~~(7)~~] (8) The commission may not add interest to any quarterly installment subject to a  
513 penalty under this section.

514 [~~(8)~~] (9) The commission may conduct audits to determine whether any tax is owed  
515 under this part.

516 Section 4. Section **59-5-207** is amended to read:

517 **59-5-207. Date tax due -- Extensions -- Installment payments -- Penalty on**  
518 **delinquencies -- Audit.**

519 (1) The tax imposed by this chapter is due and payable on or before June 1 of the year  
520 next succeeding the calendar year when the mineral is produced and sold or delivered.

521 (2) The commission may, for good cause shown upon a written application by the  
522 taxpayer, extend the time of payment of the whole or any part of the tax for a period not to  
523 exceed six months. If an extension is granted, interest at the rate and in the manner prescribed

524 in Section 59-1-402 shall be charged and added to the amount of the deferred payment of the  
525 tax.

526 (3) Every taxpayer subject to this chapter whose total tax obligation for the preceding  
527 calendar year was \$3,000 or more shall pay the taxes assessed under this chapter in quarterly  
528 installments. Each installment shall be based on the estimated gross value received by the  
529 taxpayer during the quarter preceding the date on which the installment is due.

530 (4) The quarterly installments are due as follows:

531 (a) for January 1 through March 31, on or before June 1;

532 (b) for April 1 through June 30, on or before September 1;

533 (c) for July 1 through September 30, on or before December 1; and

534 (d) for October 1 through December 31, on or before March 1 of the next year.

535 (5) If a taxpayer files an amended return under this part after the original due date for  
536 filing the return, not including extensions, the taxpayer is not required to recalculate the  
537 taxpayer's taxes assessed under this part for purposes of calculating quarterly installments due  
538 under this section.

539 [~~(5)~~] (6) (a) If the taxpayer fails to report and pay any tax when due, the taxpayer is  
540 subject to the penalties provided under Section 59-1-401, unless otherwise provided in  
541 Subsection [~~(6)~~] (7).

542 (b) An underpayment exists if less than 80% of the tax due for a quarter is paid.

543 [~~(6)~~] (7) The penalty for failure to pay the tax due or underpayment of tax may not be  
544 assessed if the taxpayer's quarterly tax installment payment equals 25% of the tax reported and  
545 paid by the taxpayer for the preceding taxable year.

546 [~~(7)~~] (8) There shall be no interest added to any estimated tax payments subject to a  
547 penalty under this section.

548 [~~(8)~~] (9) The commission may conduct audits to determine whether any tax is owed  
549 under this section.

550 Section 5. Section **59-7-504** is amended to read:

551 **59-7-504. Estimated tax payments -- Penalty -- Waiver.**

552 (1) Except as otherwise provided in this section, each corporation subject to taxation  
553 under this chapter having a tax liability of \$3,000 or more in the current tax year, or which had  
554 a tax liability of \$3,000 or more in the previous tax year, shall make payments of estimated tax

555 at the same time and using any method provided under Section 6655, Internal Revenue Code.

556 (2) The following are modifications or exceptions to the provisions of Section 6655,  
557 Internal Revenue Code:

558 (a) for the first year a corporation is required to file a return in Utah, that corporation is  
559 not subject to Subsection (1) if it makes a payment on or before the due date of the return,  
560 without extensions, equal to or greater than the minimum tax required under Section 59-7-104  
561 or 59-7-201;

562 (b) the applicable percentage of the required annual payment, as defined in Section  
563 6655, Internal Revenue Code, for annualized income installments, adjusted seasonal  
564 installments, and those estimated tax payments based on the current year tax liability shall be:

565	Installment	Percentage
566	1st	22.5
567	2nd	45.0
568	3rd	67.5
569	4th	90.0

570 (c) large corporations shall be treated as any other corporation for purposes of this  
571 section; and

572 (d) if a taxpayer elects a different annualization period than the one used for federal  
573 purposes, the taxpayer shall make an election with the Tax Commission at the same time as  
574 provided under Section 6655, Internal Revenue Code.

575 (3) If a corporation files an amended return under this part after the original due date  
576 for filing the return, not including extensions, the corporation is not required to recalculate the  
577 taxpayer's taxes assessed under this part for purposes of calculating quarterly installments due  
578 under this section.

579 [~~(3)~~] (4) A penalty shall be added as provided in Section 59-1-401 for any quarterly  
580 estimated tax payment which is not made in accordance with this section.

581 [~~(4)~~] (5) There shall be no interest added to any estimated tax payments subject to a  
582 penalty under this section.

583 Section 6. Section **59-7-507** is amended to read:

584 **59-7-507. Payment of tax.**

585 (1) (a) If quarterly estimated payments are not made as provided in Section 59-7-504,

586 the amount of tax imposed by this chapter shall be paid no later than the original due date of  
587 the return.

588 (b) If an extension of time is necessary for filing a return, as provided in Subsection  
589 59-7-505(3) or Section 59-7-803, payment must be made no later than the original due date of  
590 the return in an amount equal to the ~~[lesser of: (i) The]~~ greater of:

591 ~~[(A)]~~ (i) 90% of the total tax ~~[reported on the return]~~ liability for the current taxable  
592 year; or

593 ~~[(B)]~~ (ii) 100% of the minimum tax described in Section 59-7-104~~[; or]~~.

594 ~~[(ii) 100% of the total tax liability for the taxable year immediately preceding the~~  
595 ~~current taxable year.]~~

596 (c) If payment is not made as provided in Subsection (1)(b), the commission shall add  
597 ~~[an extension]~~ a penalty as provided in ~~[Section]~~ Subsection 59-1-401(3)(b)(iii), until the tax is  
598 paid ~~[during the period of extension]~~ in full.

599 (2) (a) At the request of the taxpayer, the commission may extend the time for payment  
600 of the amount determined as the tax by the taxpayer, or any part of that amount, for a period not  
601 to exceed six months from the date prescribed for the payment of the tax.

602 (b) For purposes of Subsection (2)(a), the amount in respect of which the extension is  
603 granted shall be paid on or before the date of the expiration of the period of the extension.

604 Section 7. Section **59-9-104** is amended to read:

605 **59-9-104. Installment payments -- Penalty.**

606 (1) A person whose total tax obligation under this chapter for the preceding taxable  
607 year was \$10,000 or more shall pay the taxes levied under this chapter in quarterly installments.  
608 Each installment shall be based on the estimated insurance premiums received, or for the taxes  
609 imposed under Section 59-9-103, upon the estimated total administrative and claims expense  
610 incurred during the calendar quarter preceding the date on which that quarterly installment is  
611 due. The installments are due on or before April 30, July 31, October 31, and March 31. To  
612 the extent installment payments result in an overpayment of the tax obligation under this  
613 chapter, the overpayment shall be promptly refunded.

614 (2) If a person files an amended return under this part after the original due date for  
615 filing the return, not including extensions, the taxpayer is not required to recalculate the  
616 person's taxes assessed under this part for purposes of calculating quarterly installments due

617 under this section.

618           ~~[(2)]~~ (3) If an installment is not paid or is underpaid, except as provided in Subsection  
619 ~~[(3)]~~ (4), there shall be added a penalty at the rate and in the manner prescribed in Section  
620 59-1-401. The amount of the underpayment is the excess of 80% of the installment shown to  
621 be due by an audit of the taxpayer's records over the amount, if any, of the installment paid on  
622 or before the last date prescribed for the payment. The taxpayer shall pay the cost of the audit,  
623 if any.

624           ~~[(3)]~~ (4) No penalty, interest, or audit charge may be assessed under Subsection ~~[(2)]~~  
625 (3) if the taxpayer pays, for any installment required by this section, at least 27% of the annual  
626 tax reported on its annual statement for the preceding taxable year.

627           ~~[(4)]~~ (5) There shall be no interest added to any estimated tax payments subject to a  
628 penalty under this section.

629           Section 8. Section **59-10-516** is amended to read:

630           **59-10-516. Filing extension -- Payment of tax -- Penalty -- Foreign residency.**

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

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

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

636           (2) (a) Except as provided in Subsection (2)(b), the commission may not impose on a  
637 taxpayer during the extension period prescribed under Subsection (1) a penalty under ~~[Section]~~  
638 Subsection 59-1-401(3)(b)(ii) if the taxpayer pays~~;~~ 90% of the total tax liability for the  
639 current taxable year on or before the 15th day of the fourth month following the close of the  
640 taxpayer's taxable year~~[, the lesser of:]~~.

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

642           ~~[(ii) 100% of the total tax liability for the taxable year immediately preceding the~~  
643 ~~current taxable year.]~~

644           (b) If a taxpayer fails to meet the requirements of Subsection (2)(a), the commission  
645 may apply to the total balance due a penalty as provided in Section 59-1-401.

646           (3) If a federal income tax return filing is lawfully delayed pending a determination of  
647 qualification for a federal tax exemption due to residency outside of the United States, a

648 taxpayer shall file a return within 30 days after that determination is made.

649 Section 9. Section **59-10-1501** is enacted to read:

650 **Part 15. Estimated Tax Payments Act**

651 **59-10-1501. Title.**

652 This part is known as the "Estimated Tax Payments Act."

653 Section 10. Section **59-10-1502** is enacted to read:

654 **59-10-1502. Definitions.**

655 As used in this part:

656 (1) "Adjusted state tax liability after withholding" means the difference between:

657 (a) the difference between:

658 (i) the product of:

659 (A) an applicable taxpayer's state taxable income for a taxable year; and

660 (B) the tax rate imposed on the applicable taxpayer's state taxable income under this

661 chapter; and

662 (ii) the sum of:

663 (A) the nonrefundable tax credits and refundable tax credits that the taxpayer claims as

664 allowed for that taxable year on the applicable taxpayer's return filed under this chapter for the

665 taxable year except for a credit described in Subsection (1)(b); and

666 (B) any adjustments the commission makes in accordance with Subsection

667 59-10-1505(2); and

668 (b) a credit the applicable taxpayer claims on a return as allowed for amounts paid or

669 withheld under:

670 (i) Chapter 6, Mineral Production Tax Withholding, for the taxable year; or

671 (ii) this chapter for the taxable year.

672 (2) "Adjusted state tax liability before withholding" means the difference between:

673 (a) the product of:

674 (i) an applicable taxpayer's state taxable income for a taxable year; and

675 (ii) the tax rate imposed on the applicable taxpayer's state taxable income under this

676 chapter; and

677 (b) the sum of:

678 (i) the nonrefundable tax credits and refundable tax credits that the taxpayer claims as

679 allowed for that taxable year on the applicable taxpayer's return filed under this chapter for the  
680 taxable year except for a credit described in Subsection (1)(b); and

681 (ii) any adjustments the commission makes in accordance with Subsection  
682 59-10-1505(2).

683 (3) "Applicable taxpayer" means a calendar year taxpayer or a fiscal year taxpayer.

684 (4) "Calendar year taxpayer" means an individual, an estate, or a trust that has a taxable  
685 year that:

686 (a) begins on January 1; and

687 (b) is for a 12-month period.

688 (5) "Electronic" is as defined in Section 59-10-514.1.

689 (6) "Farmer" is as defined in Section 6654, Internal Revenue Code.

690 (7) "Fiscal year taxpayer" means an individual, an estate, or a trust that has a taxable  
691 year that:

692 (a) begins on a day other than January 1; and

693 (b) is for a 12-month period.

694 (8) "Fisherman" is as defined in Section 6654, Internal Revenue Code.

695 (9) "Required annual payment" means:

696 (a) for an applicable taxpayer, except for a farmer or fisherman, an amount equal to the  
697 lesser of:

698 (i) 90% of the applicable taxpayer's adjusted state tax liability before withholding for  
699 the current taxable year; or

700 (ii) 100% of the applicable taxpayer's adjusted state tax liability before withholding for  
701 the previous taxable year, if that taxable year was for a 12-month period and the taxpayer filed  
702 a return under this chapter for the taxable year; and

703 (b) for a farmer or fisherman, an amount as defined by the commission in accordance  
704 with Section 59-10-1505.

705 (10) "Required annual payment after withholding" means the difference between:

706 (a) an applicable taxpayer's required annual payment; and

707 (b) a credit the applicable taxpayer claims on a return as allowed for amounts paid or  
708 withheld under:

709 (i) Chapter 6, Mineral Production Tax Withholding, for the taxable year; or

710 (ii) this chapter for the taxable year.

711 Section 11. Section **59-10-1503** is enacted to read:

712 **59-10-1503. Required annual payment -- Estimated tax payments.**

713 (1) For a taxable year beginning on or after January 1, 2012, an applicable taxpayer  
714 required to file a return under this chapter for a taxable year shall pay to the commission the  
715 required annual payment if on the last day of the applicable taxpayer's taxable year the  
716 applicable taxpayer's adjusted state tax liability after withholding for the taxable year will be  
717 \$1,000 or more, regardless of the applicable taxpayer's filing status.

718 (2) The applicable taxpayer shall make the required annual payment described in  
719 Subsection (1) by:

720 (a) deduction and withholding under:

721 (i) Chapter 6, Mineral Production Tax Withholding; or

722 (ii) this chapter;

723 (b) the applicable taxpayer making one or more estimated tax payments to the  
724 commission as provided in this part; or

725 (c) a combination of Subsections (2)(a) and (b).

726 (3) (a) If an applicable taxpayer makes an estimated tax payment to the commission,  
727 the estimated tax payment shall be made in accordance with this Subsection (3) and Subsection  
728 (4).

729 (b) Subject to Subsection (3)(f), if, on or before the last day of the third month of the  
730 taxable year, the applicable taxpayer's adjusted state tax liability after withholding will be  
731 \$1,000 or more on the last day of the applicable taxpayer's taxable year, the applicable taxpayer  
732 shall pay:

733 (i) 25% of the required annual payment after withholding on or before the 15th day of  
734 the fourth month of the taxable year;

735 (ii) 25% of the required annual payment after withholding on or before the 15th day of  
736 the sixth month of the taxable year;

737 (iii) 25% of the required annual payment after withholding on or before the 15th day of  
738 the ninth month of the taxable year; and

739 (iv) 25% of the required annual payment after withholding on or before the 15th day of  
740 the first month of the year after the taxable year.



741 (c) Subject to Subsection (3)(f), if, on or after the first day of the fourth month of the  
742 taxable year but on or before the last day of the fifth month of the taxable year, an applicable  
743 taxpayer's adjusted state tax liability after withholding will be \$1,000 or more on the last day of  
744 the applicable taxpayer's taxable year, the applicable taxpayer shall pay:

745 (i) 50% of the required annual payment after withholding on or before the 15th day of  
746 the sixth month of the taxable year;

747 (ii) 25% of the required annual payment after withholding on or before the 15th day of  
748 the ninth month of the taxable year; and

749 (iii) 25% of the required annual payment after withholding on or before the 15th day of  
750 the first month of the year after the taxable year.

751 (d) Subject to Subsection (3)(f), if, on or after the first day of the sixth month but on or  
752 before the last day of the eighth month of the taxable year, an applicable taxpayer's adjusted  
753 state tax liability after withholding will be \$1,000 or more on the last day of the applicable  
754 taxpayer's taxable year, the applicable taxpayer shall pay:

755 (i) 75% of the required annual payment after withholding on or before the 15th day of  
756 the ninth month of the taxable year; and

757 (ii) 25% of the required annual payment after withholding on or before the 15th day of  
758 the first month of the year after the taxable year.

759 (e) Subject to Subsection (3)(f), if, on or after the first day of the ninth month of the  
760 taxable year, an applicable taxpayer's adjusted state tax liability after withholding will be  
761 \$1,000 or more on the last day of the applicable taxpayer's taxable year, the applicable taxpayer  
762 shall pay 100% of the required annual payment after withholding on or before the 15th day of  
763 the first month of the year after the taxable year.

764 (f) (i) Except as provided in Subsection (3)(f)(ii), if, after making an estimated tax  
765 payment, an applicable taxpayer's adjusted state tax liability after withholding changes, the  
766 applicable taxpayer shall proportionally increase or decrease the applicable taxpayer's  
767 remaining estimated tax payments for the taxable year so that the balance of the required  
768 annual payment after withholding is made in equal installments.

769 (ii) If a taxpayer files an amended return for a taxable year after the original due date  
770 for filing the return, not including extensions, the applicable taxpayer is not required to:

771 (A) recalculate the applicable taxpayer's adjusted state tax liability for the taxable year

772 for purposes of this part; or

773 (B) proportionally increase or decrease the applicable taxpayer's estimated tax  
774 payments for the taxable year under Subsection (3)(f)(i).

775 (4) (a) An applicable taxpayer that makes an estimated tax payment under this section  
776 shall make the estimated tax payment by electronic means.

777 (b) Notwithstanding Subsection (4)(a), the commission may waive the requirement of  
778 Subsection (4)(a) if the applicable taxpayer demonstrates to the commission that the  
779 requirement of Subsection (4)(a) would cause an undue hardship.

780 Section 12. Section **59-10-1504** is enacted to read:

781 **59-10-1504. Penalties -- Commission authority to waive, reduce, or compromise**  
782 **penalty.**

783 (1) Subject to Subsection 59-10-1505(1)(c) and except as provided in Subsection (2),  
784 an applicable taxpayer shall pay a penalty as provided in Section 59-1-401 if the applicable  
785 taxpayer fails to pay or underpays an estimated tax payment in accordance with this part.

786 (2) Subject to Subsection 59-10-1505(1)(c), in accordance with the procedures and  
787 requirements of Section 59-1-401, the commission may waive, reduce, or compromise the  
788 penalty described in Subsection (1).

789 Section 13. Section **59-10-1505** is enacted to read:

790 **59-10-1505. Rulemaking authority -- Taxpayer with a taxable year of less than 12**  
791 **months -- Farmer or fisherman -- Nonresident alien -- Exceptions to penalty --**  
792 **Calculation of adjusted state tax liability.**

793 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
794 commission shall make rules:

795 (a) providing for estimated tax payments for a taxpayer with a taxable year of less than  
796 12 months;

797 (b) establishing the required annual payment and providing for estimated tax payments:

798 (i) for a:

799 (A) farmer or fisherman; or

800 (B) nonresident alien described in Section 6654(j), Internal Revenue Code; and

801 (ii) consistent with Section 6654, Internal Revenue Code; and

802 (c) providing for the following exceptions to the penalty described in Section

803 59-10-1504:

804 (i) an exception consistent with Section 6654(e)(2), Internal Revenue Code, for an  
805 applicable taxpayer that filed a return under this chapter for the prior taxable year;

806 (ii) an exception consistent with Section 6654(e)(3), Internal Revenue Code;

807 (iii) an exception for an applicable taxpayer's failure to pay the final estimated tax  
808 payment for a taxable year consistent with Section 6654(h), Internal Revenue Code; and

809 (iv) an exception consistent with Section 6658(a), Internal Revenue Code.

810 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
811 the commission may make rules:

812 (i) except as provided in Subsection (2)(b), allowing for an adjustment to the  
813 calculation of adjusted state tax liability after withholding and adjusted state tax liability before  
814 withholding for purposes of this part, by adding or subtracting an amount that is added or  
815 subtracted on a return filed under this chapter; and

816 (ii) defining the circumstances that constitute an undue hardship to make an estimated  
817 tax payment by electronic means described in Section 59-10-1503.

818 (b) The commission may not make a rule under Subsection (2)(a)(i) that adjusts the  
819 calculation of adjusted state tax liability after withholding or adjusted state tax liability before  
820 withholding to include:

821 (i) a nonrefundable tax credit or refundable tax credit that is added or subtracted on a  
822 return filed under this chapter;

823 (ii) a contribution made in accordance with Part 13, Individual Income Tax  
824 Contribution Act; or

825 (iii) an amount of use tax liability under Chapter 12, Sales and Use Tax Act, reported  
826 on a return filed under this chapter.

827 Section 14. Section **59-10-1506** is enacted to read:

828 **59-10-1506. Commission to summarize requirements of this part on the**  
829 **commission's website.**

830 On or before December 1, 2011, the commission shall provide a summary of the  
831 requirements of this part in a conspicuous place on the commission's website.

832 Section 15. **Effective dates.**

833 (1) The enactments of Sections 59-10-1505 and 59-10-1506 take effect on May 10,

834 2011.

835 (2) The following sections take effect for a taxable year beginning on or after January  
836 1, 2012:

837 (a) Section 59-10-1501;

838 (b) Section 59-10-1502;

839 (c) Section 59-10-1503; and

840 (d) Section 59-10-1504.

841 (3) The amendments to the following sections take effect on January 1, 2012:

842 (a) Section 59-1-401;

843 (b) Section 59-1-1408;

844 (c) Section 59-5-107;

845 (d) Section 59-5-207;

846 (e) Section 59-7-504;

847 (f) Section 59-7-507;

848 (g) Section 59-9-104; and

849 (h) Section 59-10-516.

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**Legislative Review Note**  
**as of 2-28-11 8:35 AM**

**Office of Legislative Research and General Counsel**