

1                   **AMENDMENTS TO REVENUE AND TAXATION**

2                                   **TITLE**

3   2010 GENERAL SESSION

4   STATE OF UTAH

---

---

5

6   **LONG TITLE**

7   **General Description:**

8           This bill amends the Revenue and Taxation title to address penalties, the payment of  
9           income taxes, and estimated tax payments under the Individual Income Tax Act.

10 **Highlighted Provisions:**

11       This bill:

- 12       ▶ modifies penalties related to a tax under Title 59, Chapter 7, Corporate Franchise  
13           and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act;
- 14       ▶ addresses the amount of income tax required to be paid to avoid a penalty if a  
15           person makes estimated tax payments and receives an extension of time to file a  
16           return;
- 17       ▶ enacts estimated tax payment requirements under Title 59, Chapter 10, Individual  
18           Income Tax Act, including:
- 19           • defining terms;
- 20           • establishing a required annual payment;
- 21           • establishing procedures and requirements for making an estimated tax payment;
- 22           • providing a penalty for failure to pay or underpaying an estimated tax payment;
- 23           • authorizing the State Tax Commission to waive, reduce, or compromise the  
24           penalty for failure to pay or underpaying an estimated tax payment;
- 25           • granting rulemaking authority to the State Tax Commission under certain  
26           circumstances; and
- 27           • requiring the State Tax Commission to summarize the estimated tax payment  
28           provisions in a conspicuous place on the State Tax Commission's website; and
- 29       ▶ making technical and conforming changes.

30 **Monies Appropriated in this Bill:**

31       None

32 **Other Special Clauses:**

33 This bill provides an effective date.

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **59-1-401**, as last amended by Laws of Utah 2009, Chapters 31, 203, 212, and 336

37 **59-1-1408**, as enacted by Laws of Utah 2009, Chapter 212

38 **59-7-507**, as last amended by Laws of Utah 2007, Chapter 269

39 **59-10-516**, as last amended by Laws of Utah 2007, Chapter 269

40 ENACTS:

41 **59-10-1501**, Utah Code Annotated 1953

42 **59-10-1502**, Utah Code Annotated 1953

43 **59-10-1503**, Utah Code Annotated 1953

44 **59-10-1504**, Utah Code Annotated 1953

45 **59-10-1505**, Utah Code Annotated 1953

46 **59-10-1506**, Utah Code Annotated 1953



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

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

50 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**  
51 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**  
52 **interest.**

53 (1) As used in this section:

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

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

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

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

62 (B) that, at the time the commission implements the GenTax system with respect to the

63 tax, fee, or charge:

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

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

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

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

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

74 (c) "Tax, fee, or charge" means:

75 (i) a tax, fee, or charge the commission administers under:

76 (A) this title;

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

78 (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

79 (D) Section 19-6-410.5;

80 (E) Section 19-6-714;

81 (F) Section 19-6-805;

82 (G) Section 40-6-14;

83 (H) Section 69-2-5;

84 (I) Section 69-2-5.5; or

85 (J) Section 69-2-5.6; or

86 (ii) another amount that by statute is subject to a penalty imposed under this section.

87 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated  
88 tax, fee, or charge.

89 (2) (a) The due date for filing a return is:

90 (i) if the person filing the return is not allowed by law an extension of time for filing  
91 the return, the day on which the return is due as provided by law; or

92 (ii) if the person filing the return is allowed by law an extension of time for filing the  
93 return, the earlier of:

- 94 (A) the date the person files the return; or
- 95 (B) the last day of that extension of time as allowed by law.
- 96 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a
- 97 return after the due date described in Subsection (2)(a).
- 98 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:
- 99 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated
- 100 tax, fee, or charge:
- 101 (A) \$20; or
- 102 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
- 103 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,
- 104 fee, or charge, beginning on the activation date for the tax, fee, or charge:
- 105 (A) \$20; or
- 106 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is
- 107 filed no later than five days after the due date described in Subsection (2)(a);
- 108 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed
- 109 more than five days after the due date but no later than 15 days after the due date described in
- 110 Subsection (2)(a); or
- 111 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is
- 112 filed more than 15 days after the due date described in Subsection (2)(a).
- 113 (d) This Subsection (2) does not apply to:
- 114 (i) an amended return; or
- 115 (ii) a return with no tax due.
- 116 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:
- 117 (i) the person files a return on or before the due date for filing a return described in
- 118 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due
- 119 date;
- 120 (ii) the person:
- 121 (A) is subject to a penalty under Subsection (2)(b); and
- 122 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
- 123 due date for filing a return described in Subsection (2)(a);
- 124 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and

125 (B) the commission estimates an amount of tax due for that person in accordance with  
126 Subsection 59-1-1406(2);  
127 (iv) the person:  
128 (A) is mailed a notice of deficiency; and  
129 (B) within a 30-day period after the day on which the notice of deficiency described in  
130 Subsection (3)(a)(iv)(A) is mailed:  
131 (I) does not file a petition for redetermination or a request for agency action; and  
132 (II) fails to pay the tax, fee, or charge due on a return;  
133 (v) (A) the commission:  
134 (I) issues an order constituting final agency action resulting from a timely filed petition  
135 for redetermination or a timely filed request for agency action; or  
136 (II) is considered to have denied a request for reconsideration under Subsection  
137 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed  
138 request for agency action; and  
139 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period  
140 after the date the commission:  
141 (I) issues the order constituting final agency action described in Subsection  
142 (3)(a)(v)(A)(I); or  
143 (II) is considered to have denied the request for reconsideration described in  
144 Subsection (3)(a)(v)(A)(II); or  
145 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date  
146 of a final judicial decision resulting from a timely filed petition for judicial review.  
147 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:  
148 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with  
149 respect to an unactivated tax, fee, or charge:  
150 (A) \$20; or  
151 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; [~~or~~]  
152 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with  
153 respect to an activated tax, fee, or charge except for a tax imposed under Chapter 7, Corporate  
154 Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, beginning on the  
155 activation date:

156 (A) \$20; or  
157 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated  
158 tax, fee, or charge due on the return is paid no later than five days after the due date for filing a  
159 return described in Subsection (2)(a);

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

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

166 (iii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with  
167 respect to a tax imposed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter  
168 10, Individual Income Tax Act:

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

171 (B) the lesser of:

172 (I) 25% of the unpaid tax due on the return; or

173 (II) the sum of:

174 (Aa) 0.5% of the unpaid tax per month for the number of months, as determined in  
175 accordance with Subsection (3)(c), that the unpaid tax due on the return is not paid in full, for  
176 the first six months after the original due date for filing the return under Section 59-7-505 or  
177 Section 59-10-514, without extensions; and

178 (Bb) 1% of the unpaid tax per month, as determined in accordance with Subsection  
179 (3)(c), that the unpaid tax due on the return is not paid in full, for any months after the first six  
180 months after the original due date for filing the return under Section 59-7-505 or Section  
181 59-10-514, without extensions.

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

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

187 and

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

189 (4) (a) ~~[Beginning January 1, 1995, in]~~ In the case of any underpayment of estimated  
190 tax or quarterly installments required by ~~[Sections]~~ Section 59-5-107, 59-5-207, 59-7-504,  
191 ~~[and] 59-9-104, or 59-10-1503,~~ there shall be added a penalty in an amount determined by  
192 applying the interest rate provided under ~~[Section]~~ Subsection 59-1-402(2) plus ~~[four]~~ three  
193 percentage points to the amount of the underpayment for the period of the underpayment.

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

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

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

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

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

205 ~~[(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a~~  
206 ~~person allowed by law an extension of time for filing a corporate franchise or income tax return~~  
207 ~~under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return~~  
208 ~~under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in~~  
209 ~~Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not~~  
210 ~~including the extension of time, the person fails to pay:]~~

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

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

216 ~~[(b) For purposes of Subsection (5)(a), the penalty per month during the period of the~~  
217 ~~extension of time for filing the return is an amount equal to 2% of the tax due on the return,~~

218 ~~unpaid as of the day on which the return is due as provided by law.]~~

219       ~~[(6)] (5)~~ If a person does not file a return within an extension of time allowed by  
220 Section 59-7-505 or 59-10-516, the person~~[: (a) is not subject to a penalty in the amount~~  
221 ~~described in Subsection (5)(b), and (b)]~~ is subject to a penalty in an amount equal to the sum  
222 of:

223       ~~[(+)] (a)~~ a late file penalty in an amount equal to the greater of:

224       ~~[(A)] (i)~~ \$20; or

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

227       ~~[(+)] (b)~~ a late pay penalty in an amount equal to the greater of:

228       ~~[(A)] (i)~~ \$20; or

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

231       ~~[(7)] (6)~~ (a) Additional penalties for an underpayment of a tax, fee, or charge are as  
232 provided in this Subsection ~~[(7)] (6)~~(a).

233       (i) Except as provided in Subsection ~~[(7)] (6)~~(c), if any portion of an underpayment of  
234 a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment  
235 that is due to negligence.

236       (ii) Except as provided in Subsection ~~[(7)] (6)~~(d), if any portion of an underpayment of  
237 a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the  
238 entire underpayment.

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

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

243       (b) If the commission determines that a person is liable for a penalty imposed under  
244 Subsection ~~[(7)] (6)~~(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed  
245 penalty.

246       (i) The notice of proposed penalty shall:

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

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

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

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

253 (B) proceed in accordance with the review procedures of Subsection [~~(7)~~] (6)(b)(iii).

254 (iii) A person against whom a penalty is proposed in accordance with this Subsection  
255 [~~(7)~~] (6) may contest the proposed penalty by filing a petition for an adjudicative proceeding  
256 with the commission.

257 (iv) (A) If the commission determines that a person is liable for a penalty under this  
258 Subsection [~~(7)~~] (6), the commission shall assess the penalty and give notice and demand for  
259 payment.

260 (B) The commission shall mail the notice and demand for payment described in  
261 Subsection [~~(7)~~] (6)(b)(iv)(A):

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

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

264 (c) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not  
265 subject to the penalty under Subsection [~~(7)~~] (6)(a)(i) if on or after July 1, 2001:

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

268 (A) the seller meets one or more of the criteria described in Subsection  
269 59-12-107(1)(a); and

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

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

273 (A) the seller meets one or more of the criteria described in Subsection  
274 59-12-107(1)(a); and

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

277 (d) A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not  
278 subject to the penalty under Subsection [~~(7)~~] (6)(a)(ii) if:

279 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order

280 determining that:

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

282 and

283 (II) the commission or a county, city, or town may require the seller to collect a tax

284 under Subsections 59-12-103(2)(a) through (d); or

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

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

287 and

288 (II) the commission or a county, city, or town may require the seller to collect a tax

289 under Subsections 59-12-103(2)(a) through (d); and

290 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a

291 nonfrivolous argument for the extension, modification, or reversal of existing law or the

292 establishment of new law.

293 ~~[(8)]~~ (7) The penalty for failure to file an information return, information report, or a

294 complete supporting schedule is \$50 for each information return, information report, or

295 supporting schedule up to a maximum of \$1,000.

296 ~~[(9)]~~ (8) If a person, in furtherance of a frivolous position, has a prima facie intent to

297 delay or impede administration of a law relating to a tax, fee, or charge and files a purported

298 return that fails to contain information from which the correctness of reported tax, fee, or

299 charge liability can be determined or that clearly indicates that the tax, fee, or charge liability

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

301 ~~[(10)]~~ (9) (a) A seller that fails to remit a tax, fee, or charge monthly as required by

302 Subsection 59-12-108(1)(a):

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

304 (ii) may not retain the percentage of sales and use taxes that would otherwise be

305 allowable under Subsection 59-12-108(2).

306 (b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as

307 required by Subsection 59-12-108(1)(a)(ii)(B):

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

309 (ii) may not retain the percentage of sales and use taxes that would otherwise be

310 allowable under Subsection 59-12-108(2).

311            [(H)] (10) (a) A person is subject to the penalty provided in Subsection [(H)] (10)(c)  
312 if that person:

313            (i) commits an act described in Subsection [(H)] (10)(b) with respect to one or more of  
314 the following documents:

315            (A) a return;

316            (B) an affidavit;

317            (C) a claim; or

318            (D) a document similar to Subsections [(H)] (10)(a)(i)(A) through (C);

319            (ii) knows or has reason to believe that the document described in Subsection [(H)]  
320 (10)(a)(i) will be used in connection with any material matter administered by the commission;  
321 and

322            (iii) knows that the document described in Subsection [(H)] (10)(a)(i), if used in  
323 connection with any material matter administered by the commission, would result in an  
324 understatement of another person's liability for a tax, fee, or charge.

325            (b) The following acts apply to Subsection [(H)] (10)(a)(i):

326            (i) preparing any portion of a document described in Subsection [(H)] (10)(a)(i);

327            (ii) presenting any portion of a document described in Subsection [(H)] (10)(a)(i);

328            (iii) procuring any portion of a document described in Subsection [(H)] (10)(a)(i);

329            (iv) advising in the preparation or presentation of any portion of a document described  
330 in Subsection [(H)] (10)(a)(i);

331            (v) aiding in the preparation or presentation of any portion of a document described in  
332 Subsection [(H)] (10)(a)(i);

333            (vi) assisting in the preparation or presentation of any portion of a document described  
334 in Subsection [(H)] (10)(a)(i); or

335            (vii) counseling in the preparation or presentation of any portion of a document  
336 described in Subsection [(H)] (10)(a)(i).

337            (c) For purposes of Subsection [(H)] (10)(a), the penalty:

338            (i) shall be imposed by the commission;

339            (ii) is \$500 for each document described in Subsection [(H)] (10)(a)(i) with respect to  
340 which the person described in Subsection [(H)] (10)(a) meets the requirements of Subsection  
341 [(H)] (10)(a); and

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

343 (d) The commission may seek a court order to enjoin a person from engaging in  
344 conduct that is subject to a penalty under this Subsection [~~(11)~~] (10).

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

348 [~~(11)~~] (11) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as  
349 provided in Subsections [~~(11)~~] (11)(b) through (e).

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

354 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection [~~(11)~~] (11)(b)(i), the  
355 penalty may not:

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

357 (B) exceed \$1,000.

358 (c) (i) A person who, with intent to evade a tax, fee, or charge or requirement of this  
359 title or any lawful requirement of the commission, fails to make, render, sign, or verify a return  
360 or to supply information within the time required by law, or who makes, renders, signs, or  
361 verifies a false or fraudulent return or statement, or who supplies false or fraudulent  
362 information, is guilty of a third degree felony.

363 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection [~~(11)~~] (11)(c)(i), the  
364 penalty may not:

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

366 (B) exceed \$5,000.

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

370 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection [~~(11)~~] (11)(d)(i), the  
371 penalty may not:

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

373 (B) exceed \$25,000.

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

375 (A) described in Subsection [~~(12)~~] (11)(e)(ii) with respect to one or more of the

376 following documents:

377 (I) a return;

378 (II) an affidavit;

379 (III) a claim; or

380 (IV) a document similar to Subsections [~~(12)~~] (11)(e)(i)(A)(I) through (III); and

381 (B) subject to Subsection [~~(12)~~] (11)(e)(iii), with knowledge that the document

382 described in Subsection [~~(12)~~] (11)(e)(i)(A):

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

384 (II) could be used in connection with any material matter administered by the

385 commission.

386 (ii) The following acts apply to Subsection [~~(12)~~] (11)(e)(i):

387 (A) preparing any portion of a document described in Subsection [~~(12)~~] (11)(e)(i)(A);

388 (B) presenting any portion of a document described in Subsection [~~(12)~~] (11)(e)(i)(A);

389 (C) procuring any portion of a document described in Subsection [~~(12)~~] (11)(e)(i)(A);

390 (D) advising in the preparation or presentation of any portion of a document described

391 in Subsection [~~(12)~~] (11)(e)(i)(A);

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

393 Subsection [~~(12)~~] (11)(e)(i)(A);

394 (F) assisting in the preparation or presentation of any portion of a document described

395 in Subsection [~~(12)~~] (11)(e)(i)(A); or

396 (G) counseling in the preparation or presentation of any portion of a document

397 described in Subsection [~~(12)~~] (11)(e)(i)(A).

398 (iii) This Subsection [~~(12)~~] (11)(e) applies:

399 (A) regardless of whether the person for which the document described in Subsection

400 [~~(12)~~] (11)(e)(i)(A) is prepared or presented:

401 (I) knew of the falsity of the document described in Subsection [~~(12)~~] (11)(e)(i)(A); or

402 (II) consented to the falsity of the document described in Subsection [~~(12)~~]

403 (11)(e)(i)(A); and

404 (B) in addition to any other penalty provided by law.  
405 (iv) Notwithstanding Section 76-3-301, for purposes of this Subsection [~~(12)~~] (11)(e),  
406 the penalty may not:

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

408 (B) exceed \$25,000.

409 (v) The commission may seek a court order to enjoin a person from engaging in  
410 conduct that is subject to a penalty under this Subsection [~~(12)~~] (11)(e).

411 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
412 the commission may make rules prescribing the documents that are similar to Subsections  
413 [~~(12)~~] (11)(e)(i)(A)(I) through (III).

414 (f) The statute of limitations for prosecution for a violation of this Subsection [~~(12)~~]  
415 (11) is the later of six years:

416 (i) from the date the tax should have been remitted; or

417 (ii) after the day on which the person commits the criminal offense.

418 [~~(13)~~] (12) Upon making a record of its actions, and upon reasonable cause shown, the  
419 commission may waive, reduce, or compromise any of the penalties or interest imposed under  
420 this part.

421 Section 2. Section **59-1-1408** is amended to read:

422 **59-1-1408. Assessments.**

423 (1) Except as provided in Subsections (2) through (4), an assessment is made on the  
424 date a liability is posted to the records of the commission.

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

428 (a) if a person has not filed a petition for redetermination of a deficiency under Section  
429 59-1-501, on the date:

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

432 (B) 90 days after the day on which the commission mails the notice of deficiency to the  
433 person if the notice is addressed to a person outside the United States or the District of

434 Columbia; or

- 435 (ii) the person in writing:
- 436 (A) agrees with the commission on the existence and amount of the liability; and
- 437 (B) consents to the assessment of the liability; or
- 438 (b) if a person files a petition for redetermination of a deficiency under Section
- 439 59-1-501, on the date the liability resulting from a final commission decision is posted to the
- 440 records of the commission.
- 441 (3) Except as provided in Subsection (4), for purposes of a notice of proposed penalty
- 442 under Section 59-1-302 or Subsection 59-1-401[~~(7)~~] (6), an assessment is made:
- 443 (a) if a person has not filed a petition for redetermination of a deficiency under Section
- 444 59-1-501, on the date:
- 445 (i) (A) 30 days after the day on which the commission mails the notice of proposed
- 446 penalty to the person; or
- 447 (B) 90 days after the day on which the commission mails the notice of proposed
- 448 penalty to the person if the notice is addressed to a person outside the United States or the
- 449 District of Columbia; or
- 450 (ii) the person in writing:
- 451 (A) agrees with the commission on the existence and amount of the liability; and
- 452 (B) consents to the assessment of the liability; or
- 453 (b) if a person files a petition for redetermination of a deficiency under Section
- 454 59-1-501, on the date the liability resulting from a final commission decision is posted to the
- 455 records of the commission.
- 456 (4) In the case of interest under Section 59-1-402 that accrues to a tax, fee, or charge,
- 457 an assessment is considered to have been made on the date the tax, fee, or charge is assessed.
- 458 (5) The commission may at any time within the time period prescribed for assessment
- 459 under Section 59-1-1410, increase or decrease an assessment if the commission ascertains that
- 460 the assessment is imperfect or incomplete in a material respect.
- 461 Section 3. Section **59-7-507** is amended to read:
- 462 **59-7-507. Payment of tax.**
- 463 (1) (a) If quarterly estimated payments are not made as provided in Section 59-7-504,
- 464 the amount of tax imposed by this chapter shall be paid no later than the original due date of
- 465 the return.

466 (b) If an extension of time is necessary for filing a return, as provided in Subsection  
 467 59-7-505(3) or Section 59-7-803, payment must be made no later than the original due date of  
 468 the return in an amount equal to the ~~[lesser of: (i) The]~~ greater of:

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

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

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

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

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

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

482 Section 4. Section **59-10-516** is amended to read:

483 **59-10-516. Filing extension -- Payment of tax -- Penalty -- Foreign residency.**

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

485 (b) The extension under Subsection (1)(a) may not exceed six months.

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

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

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

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

496 (3) If any federal income tax return filing is lawfully delayed pending a determination

497 of qualification for federal tax exemption due to residency outside of the United States, a  
498 taxpayer shall file a return within 30 days after that determination is made.

499 Section 5. Section **59-10-1501** is enacted to read:

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

501 **59-10-1501. Title.**

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

503 Section 6. Section **59-10-1502** is enacted to read:

504 **59-10-1502. Definitions.**

505 As used in this part:

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

507 (a) the difference between:

508 (i) the product of:

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

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

511 chapter; and

512 (ii) the sum of:

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

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

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

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

517 59-10-1505(2); and

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

519 withheld under:

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

521 (ii) this chapter for the taxable year.

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

523 (a) the product of:

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

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

526 chapter; and

527 (b) the sum of:

528 (i) the nonrefundable tax credits and refundable tax credits that the taxpayer claims as  
529 allowed for that taxable year on the applicable taxpayer's return filed under this chapter for the  
530 taxable year except for a credit described in Subsection (1)(b); and

531 (ii) any adjustments the commission makes in accordance with Subsection  
532 59-10-1505(2).

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

534 (4) "Calendar year taxpayer" means the following that has a taxable year that begins on  
535 January 1 and is for a 12-month period:

536 (a) an individual;

537 (b) an estate;

538 (c) a trust; or

539 (d) an S corporation as defined in Section 59-10-1402.

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

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

542 (7) "Fiscal year taxpayer" means the following that has a taxable year that begins on a  
543 day other than January 1 and is for a 12-month period:

544 (a) an individual;

545 (b) an estate;

546 (c) a trust; or

547 (d) an S corporation as defined in Section 59-10-1402.

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

549 (9) "Pass-through entity" is as defined in Section 59-10-1402.

550 (10) "Required annual payment" means:

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

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

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

558 (b) for a farmer or fisherman, an amount as defined by the commission in accordance

559 with Section 59-10-1505.

560 (11) "Required annual payment after withholding" means the difference between:

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

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

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

565 (ii) this chapter for the taxable year.

566 Section 7. Section **59-10-1503** is enacted to read:

567 **59-10-1503. Required annual payment -- Estimated tax payments.**

568 (1) For a taxable year beginning on or after January 1, 2011, an applicable taxpayer  
569 required to file a return under this chapter for the taxable year shall pay to the commission the  
570 required annual payment if on the last day of the applicable taxpayer's taxable year the  
571 applicable taxpayer's adjusted state tax liability after withholding for the taxable year will be  
572 \$1,000 or more, regardless of the applicable taxpayer's filing status.

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

575 (a) deduction and withholding under:

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

577 (ii) this chapter;

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

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

581 (3) (a) If an applicable taxpayer makes an estimated tax payment to the commission,  
582 the estimated tax payment shall be made in accordance with this Subsection (3) and Subsection  
583 (4).

584 (b) Subject to Subsection (3)(f), if, on or before the last day of the third month of the  
585 taxable year, the applicable taxpayer's adjusted state tax liability after withholding will be  
586 \$1,000 or more on the last day of the applicable taxpayer's taxable year, the applicable taxpayer  
587 shall pay:

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

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

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

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

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

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

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

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

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

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

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

614 (e) Subject to Subsection (3)(f), if, on or after the first day of the ninth month of the  
615 taxable year, an applicable taxpayer's adjusted state tax liability after withholding will be  
616 \$1,000 or more on the last day of the applicable taxpayer's taxable year, the applicable taxpayer  
617 shall pay 100% of the required annual payment after withholding on or before the 15th day of  
618 the first month of the year after the taxable year.

619 (f) (i) Except as provided in Subsection (3)(f)(ii), if, after making an estimated tax  
620 payment, an applicable taxpayer's adjusted state tax liability after withholding changes, the

621 applicable taxpayer shall proportionally increase or decrease the applicable taxpayer's  
622 remaining estimated tax payments for the taxable year so that the balance of the required  
623 annual payment after withholding is made in equal installments.

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

626 (A) recalculate the applicable taxpayer's adjusted state tax liability for the taxable year  
627 for purposes of this part; or

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

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

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

635 Section 8. Section **59-10-1504** is enacted to read:

636 **59-10-1504. Penalties -- Commission authority to waive, reduce, or compromise**  
637 **penalty.**

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

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

644 Section 9. Section **59-10-1505** is enacted to read:

645 **59-10-1505. Rulemaking authority -- Taxpayer with a taxable year of less than 12**  
646 **months -- Farmer or fisherman -- Nonresident alien -- Exceptions to penalty --**  
647 **Calculation of adjusted state tax liability.**

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

650 (a) providing for estimated tax payments for a taxpayer with a taxable year of less than  
651 12 months;

652 (b) establishing the required annual payment and providing for estimated tax payments:  
653 (i) for a:  
654 (A) farmer or fisherman; or  
655 (B) nonresident alien described in Section 6654(j), Internal Revenue Code; and  
656 (ii) consistent with Section 6654, Internal Revenue Code; and  
657 (c) providing for the following exceptions to the penalty described in Section  
658 59-10-1504:  
659 (i) an exception consistent with Section 6654(e)(2), Internal Revenue Code, for an  
660 applicable taxpayer that filed a return under this chapter for the prior taxable year;  
661 (ii) an exception consistent with Section 6654(e)(3), Internal Revenue Code;  
662 (iii) an exception for an applicable taxpayer's failure to pay the final estimated tax  
663 payment for a taxable year consistent with Section 6654(h), Internal Revenue Code; and  
664 (iv) an exception consistent with Section 6658(a), Internal Revenue Code.  
665 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
666 the commission may make rules:  
667 (i) except as provided in Subsection (2)(b), allowing for an adjustment to the  
668 calculation of adjusted state tax liability after withholding and adjusted state tax liability before  
669 withholding for purposes of this part, by adding or subtracting an amount that is added or  
670 subtracted on a return filed under this chapter; and  
671 (ii) defining the circumstances that constitute an undue hardship to make an estimated  
672 tax payment by electronic means Section 59-10-1503.  
673 (b) The commission may not make a rule under Subsection (2)(a)(i) that adjusts the  
674 calculation of adjusted state tax liability after withholding or adjusted state tax liability before  
675 withholding to include:  
676 (i) a nonrefundable tax credit or refundable tax credit that is added or subtracted on a  
677 return filed under this chapter;  
678 (ii) a contribution made in accordance with Part 13, Individual Income Tax  
679 Contribution Act; or  
680 (iii) an amount of use tax liability under Chapter 12, Individual Income Tax Act,  
681 reported on a return filed under this chapter.  
682 Section 10. Section **59-10-1506** is enacted to read:

683 59-10-1506. **Commission to summarize requirements of this part on the**  
684 **commission's website.**

685 On or before December 1, 2010, the commission shall provide a summary of the  
686 requirements of this part in a conspicuous place on the commission's website.

687 Section 11. **Effective date.**

688 (1) Except as provided in Subsection (2), this bill takes effect for a taxable year  
689 beginning on or after January 1, 2011.

690 (2) The following sections take effect on May 11, 2010:

691 (a) Section 59-10-1505; and

692 (b) Section 59-10-1506.