

Part 5 Procedures and Administration

59-7-501 Accounting periods -- Methods of accounting.

- (1) Utah taxable income shall be computed upon the basis of:
 - (a) the same taxable period used for federal income tax purposes;
 - (b) the corporation's annual accounting period if the corporation did not file a federal income tax return; or
 - (c) the calendar year if the corporation has an annual accounting period other than a fiscal year, has no annual accounting period, or does not keep books, and does not file a federal income tax return.
- (2)
 - (a) Utah taxable income shall be computed under the method of accounting on the basis of which the corporation computes:
 - (i) its income for federal income tax purposes; or
 - (ii) its income in keeping its books if the corporation did not file a federal income tax return.
 - (b) If no method of accounting has been regularly used by the corporation or if the method employed does not clearly reflect Utah taxable income computed and apportioned to this state for the taxable year, Utah taxable income shall be computed in accordance with a method which in the opinion of the commission clearly reflects Utah taxable income.
- (3) If a corporation is required under Public Law 99-514, or successor statute, to change its method of accounting from the cash receipts and disbursements method to an accrual method or other permissible method, the transition period provision of Public Law 99-514, or successor statute, for taking into account the adjustments required by reasons of such change shall be followed.
- (4) The amount of all items of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under the methods of accounting permitted under this section, any such amounts are to be properly accounted for as of a different period.
- (5) The subtractions provided for in this chapter shall be taken for the taxable year in which "paid or accrued" or "paid or incurred," dependent upon the method of accounting upon the basis of which Utah taxable income is computed, unless in order to clearly reflect the income the subtractions ought to be taken as of a different period.
- (6) For purposes of Subsections (4) and (5), transition periods for reporting income or deductions permitted or required by Public Law 99-514, or successor statute, shall be followed.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-502 Change of taxable year or accounting period.

- (1) If a corporation changes its taxable year for federal income tax purposes, the new taxable year shall become the corporation's taxable year for Utah corporate franchise or income tax purposes.
- (2) If a corporation which does not file a federal tax return changes its accounting period, the new accounting period shall become the corporation's taxable year for Utah corporate franchise or income tax purposes if the change is approved by the commission.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-503 Return where period changed.

- (1) If a corporation changes its taxable year in accordance with Section 59-7-502, a short period return shall be made for the period of less than 12 months between the close of the last taxable year for which a return was made and the close of the new taxable year.
- (2) Where a short period return is made under Subsection (1) on account of a change in the accounting period, and in any other case where a short period return is required or permitted by rules prescribed by the commission to be made for a fractional part of a year, the tax shall be calculated at the rate provided in Section 59-7-104 for the period covered by the return assignable to business done in Utah.

Renumbered and Amended by Chapter 169, 1993 General Session

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

- (1) Except as otherwise provided in this section, each corporation subject to taxation under this chapter having a tax liability of \$3,000 or more in the current tax year, or which had a tax liability of \$3,000 or more in the previous tax year, shall make payments of estimated tax at the same time and using any method provided under Section 6655, Internal Revenue Code.
- (2) The following are modifications or exceptions to the provisions of Section 6655, Internal Revenue Code:
 - (a) for the first year a corporation is required to file a return in Utah, that corporation is not subject to Subsection (1) if it makes a payment on or before the due date of the return, without extensions, equal to or greater than the minimum tax required under Section 59-7-104 or 59-7-201;
 - (b) the applicable percentage of the required annual payment, as defined in Section 6655, Internal Revenue Code, for annualized income installments, adjusted seasonal installments, and those estimated tax payments based on the current year tax liability shall be:

	Installment	Percentage
	1st	22.5
	2nd	45.0
	3rd	67.5
	4th	90.0

- (c) large corporations shall be treated as any other corporation for purposes of this section; and
- (d) if a taxpayer elects a different annualization period than the one used for federal purposes, the taxpayer shall make an election with the Tax Commission at the same time as provided under Section 6655, Internal Revenue Code.
- (3) A penalty shall be added as provided in Section 59-1-401 for any quarterly estimated tax payment which is not made in accordance with this section.
- (4) There shall be no interest added to any estimated tax payments subject to a penalty under this section.

Amended by Chapter 311, 1995 General Session

59-7-505 Returns required -- When due -- Extension of time -- Exemption from filing.

- (1) Each corporation subject to taxation under this chapter shall make a return, except that a group of corporations filing a combined report under Part 4, Combined Reporting, shall file one combined report.

- (a) The return shall be signed by a responsible officer of the corporation, the signature of whom need not be notarized but when signed shall be considered as made under oath.
- (b)
 - (i) In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, those receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns.
 - (ii) Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.
- (2) Returns shall be made on or before the 15th day of the fourth month following the close of the taxable year.
- (3)
 - (a) The commission shall allow a taxpayer an extension of time for filing returns.
 - (b) The extension under Subsection (3)(a) may not exceed six months.
- (4) Each return shall be made to the commission.
- (5) A corporation incorporated or qualified to do business in this state prior to January 1, 1973, is not liable for filing a return or paying tax measured by income for the taxable year in which it legally terminates its existence.
- (6) A corporation incorporated or qualified to do business or which had its authority to do business reinstated on or after January 1, 1973, shall file a return and pay the tax measured by income for each period during which it had the right to do business in this state, and the return shall be filed and the tax paid within three months and 15 days after the close of this period.
- (7) If a corporation terminates its existence under Section 16-10a-1401, no returns are required to be filed if a statement is furnished to the commission that no business has been conducted during that period.
- (8)
 - (a) A corporation commencing to do business in Utah after qualification or incorporation with the Division of Corporations and Commercial Code is not required to file a return for the period commencing with the date of incorporation or qualification and ending on the last day of the same month, if that corporation was not doing business in and received no income from sources in the state during such period.
 - (b) In determining whether a corporation comes within the provisions of this chapter, affidavits on behalf of the corporation that it did no business in and received no income from sources in Utah during such period shall be filed with the commission.

Amended by Chapter 332, 1997 General Session

59-7-507 Payment of tax.

- (1)
 - (a) If quarterly estimated payments are not made as provided in Section 59-7-504, the amount of tax imposed by this chapter shall be paid no later than the original due date of the return.
 - (b) If an extension of time is necessary for filing a return, as provided in Subsection 59-7-505(3) or Section 59-7-803, payment must be made no later than the original due date of the return in an amount equal to the lesser of:
 - (i) The greater of:
 - (A) 90% of the total tax reported on the return for the current taxable year; or
 - (B) 100% of the minimum tax described in Section 59-7-104; or

- (ii) 100% of the total tax liability for the taxable year immediately preceding the current taxable year.
 - (c) If payment is not made as provided in Subsection (1)(b), the commission shall add an extension penalty as provided in Section 59-1-401, until the tax is paid during the period of extension.
- (2)
- (a) At the request of the taxpayer, the commission may extend the time for payment of the amount determined as the tax by the taxpayer, or any part of that amount, for a period not to exceed six months from the date prescribed for the payment of the tax.
 - (b) For purposes of Subsection (2)(a), the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

Amended by Chapter 269, 2007 General Session

59-7-508 Audit of returns.

As soon as practicable after the return is filed the commission shall examine it and shall determine the correct amount of the tax.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-509 Failure to file return -- Penalty.

In case of any failure to make and file a return required by this chapter within the time prescribed by law or prescribed by the commission in pursuance of law, there shall be added to the amount required to be shown as tax on the return a penalty as provided in Section 59-1-401. The amounts so added to any tax shall be collected at the same time and in the same manner and as a part of the tax, unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-510 Deficiency -- Interest.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the commission, and shall be collected as a part of the tax at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2

Amended by Chapter 1, 1993 Special Session 2

59-7-511 Penalty added to underpayments.

A penalty shall be added to underpayments of tax as provided in Section 59-1-401.

Amended by Chapter 93, 1994 General Session

59-7-512 Addition to tax in case of nonpayment.

Where the entire amount determined by the taxpayer as the tax imposed by this chapter is not paid on or before the date prescribed for its payment, there shall be collected as a part of the tax interest upon such unpaid amount at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2

Amended by Chapter 1, 1993 Special Session 2

59-7-513 Interest when time for payment extended.

If the time for payment of the amount determined as the tax by the taxpayer is extended under the authority of Subsection 59-7-507(2), there shall be collected as a part of such amount interest at the rate prescribed in Section 59-1-402 from the date when such payment should have been made, if no extension had been granted, until payment is received.

Amended by Chapter 1, 1993 Special Session 2

Amended by Chapter 1, 1993 Special Session 2

59-7-514 Extension of time to pay deficiency.

- (1) Where it is shown to the satisfaction of the commission that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the taxpayer, the commission (except where the deficiency is due to negligence, to intentional disregard of rules, or to fraud with intent to evade tax) may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of six months.
- (2) If an extension is granted, the commission may require the taxpayer to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties as the commission deems necessary, conditioned upon the payment of the deficiency in accordance with the terms of the extension.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-515 Interest when deficiency extended.

- (1) If the time for the payment of any part of a deficiency is extended, the commission shall collect as a part of the tax interest on the part of the deficiency (the time for payment of which is so extended) at the rate prescribed in Section 59-1-402 for the period of the extension, and shall collect no other interest on such part of the deficiency for such period.
- (2) If the part of the deficiency (the time for payment of which is so extended) is not paid in accordance with the terms of the extension, the commission shall collect as a part of the tax interest on such unpaid amount at the rate prescribed in Section 59-1-402 for the period from the time fixed by the terms of the extension for its payment until it is paid, and shall collect no other interest on such unpaid amount for such period.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-519 Period of limitation for making assessments -- Change, correction, or amendment of federal income tax -- Duty of corporation to notify state -- Extensions.

- (1)
 - (a) Subject to the other provisions of this section, the amount of taxes imposed by this chapter shall be assessed within three years after a return is filed.
 - (b) After the expiration of the time period described in Subsection (1)(a), a proceeding in court may not be made without assessment for the collection of the taxes described in Subsection (1)(a).

- (2) In the case of a deficiency attributable to the application of a net loss carryback, the deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net loss that results in the carryback may be assessed.
- (3) If the amount of federal taxable income for any year of any corporation as returned to the United States treasury department is changed or corrected by the commissioner of internal revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change of federal taxable income, a taxpayer shall:
 - (a) report the change or corrected net income within 90 days after the final determination of the change or correction as required to the commission; and
 - (b) concede the accuracy of the determination or state where the determination is erroneous.
- (4) Any corporation filing an amended return with the United States treasury department shall also file, within 90 days after the corporation files the amended return with the United States treasury department, an amended return with the commission that contains the information the commission requires.
- (5) If a corporation fails to report a change or correction by the commissioner of internal revenue, other officer of the United States, or other competent authority or fails to file an amended return, any deficiency resulting from the change or correction may be assessed and collected within three years after the change, correction, or amended return is reported to or filed with the federal government.
- (6) If any corporation agrees with the commissioner of internal revenue for an extension, or a renewal of an extension, of the period for proposing and assessing deficiencies in federal income tax for any year, the period for sending a notice of proposed Utah tax deficiencies for that year is the later of:
 - (a) three years after the return is filed; or
 - (b) six months after the date of the expiration of the agreed period for assessing deficiencies in federal income tax.
- (7) The extensions described in Section 59-1-1418 apply to this section.

Amended by Chapter 212, 2009 General Session

59-7-522 Overpayments.

- (1) As used in this section, "overpayment" means the same as that term is defined in Section 59-1-1409.
- (2)
 - (a) Subject to Subsection (2)(b), a claim for credit or refund of an overpayment that is attributable to a Utah net loss carry back or carry forward shall be filed within three years from the due date of the return for the taxable year of the Utah net loss.
 - (b) The three-year period described in Subsection (2)(a) shall be extended by any extension of time provided in statute for filing the return described in Subsection (2)(a).
- (3) The commission shall make a credit against or refund of any overpayment of a tax under this chapter for a taxable year if, in accordance with Section 59-7-519:
 - (a)
 - (i) a corporation agrees with the commissioner of internal revenue for an extension, or a renewal of an extension, of the period for proposing and assessing a deficiency in federal income tax for that taxable year; or
 - (ii) there is a change in or correction of federal taxable income for that taxable year; and

- (b) the corporation files a claim for the credit or refund before the expiration of the time period within which the commission may assess a deficiency.
- (4) The commission shall make a credit or refund within a 30-day period after the day on which a court's decision to require the commission to credit or refund the amount of an overpayment to a taxpayer is final.

Amended by Chapter 3, 2015 Special Session 1
Amended by Chapter 216, 2010 General Session

59-7-528 Failure to make return or supply information -- Penalty.

Each officer or employee of any corporation, who, without fraudulent intent, fails to make, render, sign, or verify any return, or to supply any information within the time required by or under the provisions of this chapter, shall be liable for a penalty as provided in Section 59-1-401, assessed and collected by the commission in the same manner as is provided in this chapter with regard to delinquent taxes.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-529 General violations and penalties.

- (1) Each person who, without fraudulent intent, fails to make, render, sign, or verify any return, or to supply any information within the time required by or under the provisions of this chapter, is liable for a civil penalty as provided in Section 59-1-401 imposed, assessed, and collected by the commission in the same manner as provided by this chapter for delinquent taxes.
- (2) It is unlawful for any person, with intent to evade any tax, to fail to timely remit the full amount of tax required by the provisions of this chapter. A violation of this section is punishable as provided in Section 59-1-401.
- (3) Each person who knowingly or intentionally makes, renders, signs, or verifies any false or fraudulent return or statement or supplies any false or fraudulent information is guilty of a criminal violation as provided in Section 59-1-401.
- (4) Each person who, with intent to evade any tax or any requirement of this chapter, fails to make, render, sign, or verify any return, or supply any information within the time required under the provisions of this chapter, is guilty of a criminal violation as provided in Section 59-1-401.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-530 Power to waive penalties or interest.

The commission may waive penalties or interest as provided in Section 59-1-401.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-531 Venue of offenses -- Evidence.

- (1) The failure to do any act required by the provisions of this chapter shall be considered an act committed in part at the office of the commission.
- (2) The certificate of the commission that a tax has not been paid, that a return has not been filed, or that information has not been supplied, as required by or under the provisions of this chapter, shall be prima facie evidence that such tax has not been paid, that such return has not been filed, or that such information has not been supplied.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-532 Revenue received by commission -- Deposit with state treasurer -- Distribution or crediting to Education Fund -- Refund claim payments.

- (1) All revenue collected or received by the commission under this chapter shall be deposited daily with the state treasurer. Such revenue, subject to the refund provisions of this section, shall be periodically distributed or credited to the Education Fund.
- (2) The commission shall from time to time certify to the state auditor the amount of any refund authorized by it, the amount of interest computed on it under the provisions of Section 59-7-533, from whom the tax to be refunded was collected, or by whom it was paid, and such refund claims shall be paid in order out of the funds first accruing to the Education Fund from the provisions of this section.

Amended by Chapter 122, 2007 General Session

59-7-533 Interest on overpayments.

Interest shall be allowed and paid upon any overpayment in respect of any tax imposed by this chapter at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2

Amended by Chapter 1, 1993 Special Session 2

59-7-534 Failure to pay tax -- Suspension or forfeiture of corporate rights.

- (1) If a tax computed and levied under this chapter is not paid before 5 p.m. on the last day of the 11th month after the date of delinquency, the corporate powers, rights, and privileges of the delinquent taxpayer, if it is a domestic corporation, shall be suspended, and if a foreign corporation, it shall forfeit its rights to do intrastate business in this state.
- (2) The commission shall transmit the name of each such corporation to the Division of Corporations and Commercial Code, which shall immediately record the same in such manner that it may be available to the public. This suspension or forfeiture shall become effective from the time such record is made, and the certificate of the Division of Corporations and Commercial Code shall be prima facie evidence of such suspension or forfeiture.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-535 Doing business after suspension or forfeiture of certain corporate powers, rights, and privileges -- Penalty.

- (1) A person is guilty of a class B misdemeanor if:
 - (a) the person's corporate powers, rights, and privileges have been suspended in accordance with Section 59-7-534; and
 - (b) the person:
 - (i) attempts or purports to exercise any of the rights, privileges, or powers of a suspended domestic corporation; or
 - (ii) transacts or attempts to transact any intrastate business in this state in behalf of a forfeited foreign corporation.
- (2) Jurisdiction of the offense shall be in any county in which any part of an action described in Subsection (1)(b) occurred.

- (3) Any contract made in violation of this section is unenforceable by a corporation or person described in Subsection (1).

Amended by Chapter 120, 2013 General Session

59-7-536 Relief in case of suspension or forfeiture.

- (1)
- (a) Any corporation which has suffered the suspension or forfeiture referred to in Section 59-7-534 may be relieved from that suspension or forfeiture by applying for that relief in writing, paying the tax and the interest and penalties for nonpayment of which the suspension or forfeiture occurred, and paying a reinstatement fee of \$100. If the corporation has done business in this state during the period of such suspension, a tax shall be computed according to this chapter for each year in which the business was done, and the tax shall be added to the delinquency and penalties provided in this section. If the due date of any return required in this section has not passed, a return need not be filed until that due date.
 - (b) Application for revivor may be made by any stockholder or creditor of the corporation or by a majority of the surviving trustees or directors, and the same shall be filed with the Division of Corporations and Commercial Code. Upon payment to the commission of the taxes, penalties, and reinstatement fee provided for in this section, the Division of Corporations and Commercial Code shall issue a certificate of revivor, and the applicant shall be revived. The revivor shall be without prejudice to any action, defense, or right which has accrued by reason of the original suspension or forfeiture. The certificate of revivor is prima facie evidence of the revivor.
- (2) If any corporation has adopted, subsequent to such suspension or forfeiture, any name so closely resembling the name of the reviving corporation as will tend to deceive, then the reviving corporation is entitled to a certificate of revivor pursuant to the terms of this section only upon adopting a new name, and in such case nothing in this section may be construed as permitting the reviving corporation to carry on any business under its former name. The reviving corporation may use its former name or may take the new name only upon filing an application for it with the Division of Corporations and Commercial Code, and upon the issuing of a certificate to such corporation by the Division of Corporations and Commercial Code, setting forth the right of such corporation to take such new name or use its former name as the case may be. The Division of Corporations and Commercial Code may not issue any certificate permitting any corporation to take or use the name of any corporation already organized in this state and which has not suffered a forfeiture, or take or use a name so closely resembling the name of any corporation already organized in this state as will tend to deceive.

Renumbered and Amended by Chapter 169, 1993 General Session

59-7-537 Confidentiality of information.

The confidentiality of returns and other information filed with the commission shall be governed by Section 59-1-403.

Renumbered and Amended by Chapter 169, 1993 General Session