

Representative Steve Eliason proposes the following substitute bill:

TAX REFUND AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions relating to tax refunds.

Highlighted Provisions:

This bill:

- ▶ limits the total amount of interest that may accrue each year on a tax overpayment, with certain exceptions; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-1-402, as last amended by Laws of Utah 2020, Chapter 294

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

Section 1. Section **59-1-402** is amended to read:

59-1-402. Definitions -- Interest.



(1) As used in this section:

(a) "Final judicial decision" means a final ruling by a court of this state or the United States for which the time for any further review or proceeding has expired.

(b) "Retroactive application of a judicial decision" means the application of a final judicial decision that:

- (i) invalidates a state or federal taxation statute; and
- (ii) requires the state to provide a refund for an overpayment that was made:
 - (A) prior to the final judicial decision; or
 - (B) during the 180-day period after the final judicial decision.

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

- (A) a tax, fee, or charge the commission administers under:
 - (I) this title;
 - (II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - (III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
 - (IV) Section 19-6-410.5;
 - (V) Section 19-6-714;
 - (VI) Section 19-6-805;
 - (VII) Section 34A-2-202;
 - (VIII) Section 40-6-14; or
 - (IX) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or
- (B) another amount that by statute is subject to interest imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

- (A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;
- (B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;
- (C) Chapter 2, Property Tax Act, except for Section 59-2-1309;
- (D) Chapter 3, Tax Equivalent Property Act;
- (E) Chapter 4, Privilege Tax; or
- (F) Chapter 13, Part 5, Interstate Agreements.

(2) Except as otherwise provided for by law, the interest rate for a calendar year for a tax, fee, or charge administered by the commission shall be calculated based on the federal

short-term rate determined by the Secretary of the Treasury under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter.

(3) The interest rate calculation shall be as follows:

(a) except as provided in Subsection (7), in the case of an overpayment or refund, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate; or

(b) in the case of an underpayment, deficiency, or delinquency, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate.

(4) Notwithstanding Subsection (2) or (3), the interest rate applicable to certain installment sales for purposes of a tax under Chapter 7, Corporate Franchise and Income Taxes, shall be determined in accordance with Section 453A, Internal Revenue Code, as provided in Section 59-7-112.

(5) (a) Except as provided in Subsection (5)(c), interest may not be allowed on an overpayment of a tax, fee, or charge if the overpayment of the tax, fee, or charge is refunded within:

(i) 45 days after the last date prescribed for filing the return with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, if the return is filed electronically; or

(ii) 90 days after the last date prescribed for filing the return:

(A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or

(B) if the return is not filed electronically.

(b) Except as provided in Subsection (5)(c), if the return is filed after the last date prescribed for filing the return, interest may not be allowed on the overpayment if the overpayment is refunded within:

(i) 45 days after the date the return is filed:

(A) with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; and

(B) if the return is filed electronically; or

(ii) 90 days after the date the return is filed:

(A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate

Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or

(B) if the return is not filed electronically.

(c) (i) ~~[In the case of]~~ Subject to Subsection (5)(d), for an amended return, interest on an overpayment [shall be] is allowed for a time period:

~~[(A) for a time period:]~~

~~[(F)]~~ (A) that begins on the later of:

~~[(Aa)]~~ (I) the date the original return was filed; or

~~[(Bb)]~~ (II) the due date for filing the original return not including any extensions for filing the original return; and

~~[(H)]~~ (B) that ends on the date the commission receives the amended return~~[-and]~~.

~~[(B) if the commission does not make a refund of an overpayment under this Subsection (5)(c):]~~

~~[(F) if the amended return is]~~

(ii) For an amended return filed electronically with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, [and is filed electronically,] interest on an overpayment is allowed if the commission does not process a refund of the overpayment within a 45-day period after the date the commission receives the amended return, for a time period:

~~[(Aa)]~~ (A) that begins 46 days after the commission receives the amended return; and

~~[(Bb)]~~ (B) ~~[subject to Subsection (5)(c)(ii),]~~ that ends on the date that the commission completes processing the refund of the overpayment~~[-or]~~.

~~[(H)]~~ (iii) ~~[if the amended return is with respect to a tax, fee, or charge except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, or is not filed electronically,]~~ For an amended return not filed electronically or with respect to any tax, fee, or charge not described in Subsection ~~H → [(5)(c)(iii)]~~ (5)(c)(ii) ← H, interest on an

overpayment is allowed if the commission does not process a refund of the overpayment within a 90-day period after the date the commission receives the amended return, for a time period:

~~[(Aa)]~~ (A) that begins 91 days after the commission receives the amended return; and

~~[(Bb)]~~ (B) ~~[subject to Subsection (5)(c)(ii),]~~ that ends on the date that the commission completes processing the refund of the overpayment.

~~[(ii) For purposes of Subsection (5)(c)(i)(B)(I)(Bb) or (5)(c)(i)(B)(II)(Bb), interest shall~~

be calculated forward from the preparation date of the refund document to allow for processing.]

(d) (i) This Subsection (5)(d) applies to interest on an overpayment under Subsection (5)(c)(i) in which:

(A) the amount of interest accruing on the overpayment on or after January 1, 2025, exceeds \$200 per calendar year; and

(B) the amount of the overpayment exceeds 30% of the taxpayer's total tax liability for the tax, fee, or charge to which the overpayment applies and for the tax period in which the overpayment applies.

(ii) This Subsection (5)(d) does not apply to:

(A) an overpayment provided to a federally-recognized tribe; or

(B) an overpayment resulting from commission error.

(iii) The interest rate imposed on an overpayment described in Subsection (5)(d)(i) shall be calculated at the rate of two percentage points below the federal short-term rate.

(iv) Notwithstanding Subsection (5)(d)(iii), for an overpayment described in Subsection (5)(d)(i):

(A) the interest rate imposed on the overpayment shall be a rate of no less than 0% and no more than 3%; and

(B) the amount of interest accruing on the overpayment shall be no less than \$200.

(6) Interest on any underpayment, deficiency, or delinquency of a tax, fee, or charge shall be computed from the time the original return is due, excluding any filing or payment extensions, to the date the payment is received.

(7) Interest on a refund relating to a tax, fee, or charge may not be paid on any overpayment that arises from a statute that is determined to be invalid under state or federal law or declared unconstitutional under the constitution of the United States or Utah if the basis for the refund is the retroactive application of a judicial decision upholding the claim of unconstitutionality or the invalidation of a statute.

Section 2. Effective date.

This bill takes effect on January 1, 2025.