

TAX REFUND CLAIM AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Stephanie Pitcher

LONG TITLE**Committee Note:**

The Revenue and Taxation Interim Committee recommended this bill.

Legislative Vote: 17 voting for 0 voting against 1 absent

General Description:

This bill modifies the procedures for challenging a penalty or interest.

Highlighted Provisions:

This bill:

- ▶ allows a person to object to a penalty or interest by paying the penalty or interest and requesting a refund even if the person did not previously challenge the assessment of a penalty or interest; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-1-501, as last amended by Laws of Utah 2009, Chapter 212**59-1-1410**, as last amended by Laws of Utah 2014, Chapter 24

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

Section 1. Section **59-1-501** is amended to read:

59-1-501. Procedure for obtaining redetermination of a deficiency -- Claim for refund.

(1) As used in this section:

(a) "Legal holiday" ~~[is as]~~ means the same as that term is defined in Section **59-10-518**.

(b) "Tax, fee, or charge" ~~[is as]~~ means the same as that term is defined in Section **59-1-1402**.

(2) A person may file a request for agency action, petitioning the commission for redetermination of a deficiency.

(3) Subject to Subsections (4) through (6), a person shall file the request for agency action described in Subsection (2):

(a) within a 30-day period after the date the commission mails a notice of deficiency to the person in accordance with Section **59-1-1405**; or

(b) within a 90-day period after the date the commission mails a notice of deficiency to the person in accordance with Section **59-1-1405** if the notice of deficiency is addressed to a person outside the United States or the District of Columbia.

(4) If the last day of a time period described in Subsection (3) is a Saturday, Sunday, or legal holiday, the last day for a person to file a request for agency action is the next day that is not a Saturday, Sunday, or legal holiday.

(5) A person that mails a request for agency action shall mail the request for agency action in accordance with Section **59-1-1404**.

(6) For purposes of Subsection (3), a person is considered to have filed a request for agency action:

(a) if the person mails the request for agency action, on the date the person is considered to have mailed the request for agency action in accordance with Section **59-1-1404**; or

(b) if the person delivers the request for agency action to the commission by a method other than mail, on the date the commission receives the request for agency action.

(7) A person ~~[who]~~ that has not previously filed a timely request for agency action in accordance with Subsection (3) may object to a final assessment issued by the commission by:

(a) paying the tax, fee, or charge, penalty accrued in accordance with Section 59-1-401,
or interest accrued in accordance with Section 59-1-402; and

(b) filing a claim for a refund as provided in Section 59-1-1410.

Section 2. Section 59-1-1410 is amended to read:

**59-1-1410. Action for collection of tax, fee, or charge -- Action for refund or
credit of liability -- Denial of refund claim under appeal -- Appeal of denied refund claim.**

(1) (a) Except as provided in Subsections (3) through (7) and Sections 59-5-114,
59-7-519, 59-10-536, and 59-11-113, the commission shall assess a tax, fee, or charge within
three years after the day on which a person files a return.

(b) Except as provided in Subsections (3) through (7), if the commission does not
assess a tax, fee, or charge within the three-year period provided in Subsection (1)(a), the
commission may not commence a proceeding to collect the tax, fee, or charge.

(2) (a) Except as provided in Subsection (2)(b), for purposes of this part, a return filed
before the last day prescribed by statute or rule for filing the return is considered to be filed on
the last day for filing the return.

(b) A return of withholding tax under Chapter 10, Part 4, Withholding of Tax, is
considered to be filed on April 15 of the succeeding calendar year if the return:

(i) is for a period ending with or within a calendar year; and

(ii) is filed before April 15 of the succeeding calendar year.

(3) The commission may assess a tax, fee, or charge or commence a proceeding for the
collection of a tax, fee, or charge at any time if:

(a) a person:

(i) files a:

(A) false return with intent to evade; or

(B) fraudulent return with intent to evade; or

(ii) fails to file a return; or

(b) the commission estimates the amount of tax, fee, or charge due in accordance with
Subsection 59-1-1406(2).

(4) The commission may extend the period to ~~[make an assessment]~~ assess a tax, fee,
or charge or to commence a proceeding to collect a tax, fee, or charge if:

(a) the three-year period under Subsection (1) has not expired; and

(b) the commission and the person sign a written agreement:

(i) authorizing the extension; and

(ii) providing for the length of the extension.

(5) The commission may make an assessment as provided in Subsection (6) if:

(a) the commission delays an audit at the request of a person;

(b) the person subsequently refuses to agree to an extension request by the commission;

and

(c) the three-year period under Subsection (1) expires before the commission completes the audit.

(6) An assessment under Subsection (5) shall be:

(a) for the time period for which the commission could not make the assessment because of the expiration of the three-year period; and

(b) in an amount equal to the difference between:

(i) the commission's estimate of the amount of tax, fee, or charge the person would have been assessed for the time period described in Subsection (6)(a); and

(ii) the amount of tax, fee, or charge the person actually paid for the time period described in Subsection (6)(a).

(7) If a person erroneously pays a liability, overpays a liability, pays a liability more than once, or the commission erroneously receives, collects, or computes a liability, the commission shall:

(a) credit the liability against any amount of liability the person owes; and

(b) refund any balance to:

(i) the person; or

(ii) (A) the person's assign;

(B) the person's personal representative;

(C) the person's successor; or

(D) a person similar to Subsections (7)(b)(ii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) (a) Except as provided in Subsection (8)(b) or Section [19-12-203](#), [59-7-522](#), [59-10-529](#), or [59-12-110](#), the commission may not make a credit or refund unless a person files

121 a claim with the commission within the later of:

122 (i) three years from the due date of the return, including the period of any extension of
123 time provided in statute for filing the return; or

124 (ii) two years from the date the tax was paid.

125 (b) The commission shall extend the time period for a person to file a claim under
126 Subsection (8)(a) if:

127 (i) the time period described in Subsection (8)(a) has not expired; and

128 (ii) the commission and the person sign a written agreement:

129 (A) authorizing the extension; and

130 (B) providing for the length of the extension.

131 (9) If the commission denies a claim for a credit or refund, a person may request a
132 redetermination of the denial by filing a petition or request for agency action with the
133 commission:

134 (a) (i) within a 30-day period after the day on which the commission mails a notice of
135 denial for the claim for credit or refund; or

136 (ii) within a 90-day period after the day on which the commission mails a notice of
137 denial for the claim for credit or refund, if the notice is addressed to a person outside the
138 United States or the District of Columbia; and

139 (b) in accordance with:

140 (i) Section 59-1-501; and

141 (ii) Title 63G, Chapter 4, Administrative Procedures Act.

142 (10) The action of the commission on a person's petition for redetermination of a denial
143 of a claim for credit or refund is final 30 days after the day on which the commission sends the
144 commission's decision or order, unless the person seeks judicial review.

145 **Section 3. Effective date.**

146 This bill takes effect on May 1, 2024.

147 **Section 4. Retrospective operation.**

148 This bill provides retrospective operation to January 1, 2024.