

**TAX CREDIT AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Deidre M. Henderson**

House Sponsor: Daniel McCay

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**LONG TITLE**

**General Description:**

This bill amends provisions related to tax credits.

**Highlighted Provisions:**

This bill:

- ▶ repeals a provision that prohibits a person from carrying forward a tax credit if the State Tax Commission is required to remove the tax credit from a tax return;

- ▶ exempts corporate and individual historic preservation tax credits from provisions requiring the State Tax Commission to remove the tax credits from a tax return under certain circumstances; 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:

**59-7-903**, as last amended by Laws of Utah 2015, Chapter 41

**59-10-1002.1**, as last amended by Laws of Utah 2015, Chapters 30 and 41

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

Section 1. Section **59-7-903** is amended to read:

**59-7-903. Removal of tax credit from tax return -- Prohibition on claiming a tax**

30 **credit -- Commission publishing requirements.**

31 (1) Subject to Subsection (2) and except as provided in Subsection (3), the commission  
32 shall remove a tax credit from a tax return and a person filing a tax return may not claim [~~or~~  
33 ~~carry forward~~] the tax credit if:

34 (a) the total amount of tax credit claimed or carried forward by all persons who file a  
35 tax return is less than \$10,000 per taxable year for three consecutive taxable years; and

36 (b) less than 10 persons per year for the three consecutive taxable years described in  
37 Subsection (1)(a) file a tax return claiming or carrying forward the tax credit.

38 (2) If the commission determines the requirements of Subsection (1) are met, the  
39 commission shall remove a tax credit from a tax return and a person filing a tax return may not  
40 claim [~~or carry forward~~] the tax credit beginning two taxable years after the January 1  
41 immediately following the date the commission determines the requirements of Subsection (1)  
42 are met.

43 (3) This section does not apply to a tax credit under Section [59-7-609](#).

44 [~~(3)~~] (4) The commission shall, on or before the November interim meeting of the year  
45 after the taxable year in which the commission determines the requirements of Subsection (1)  
46 are met, report to the Revenue and Taxation Interim Committee that, in accordance with this  
47 section:

48 (a) the commission is required to remove a tax credit from a return on which the tax  
49 credit appears; and

50 (b) a person filing a tax return may not claim [~~or carry forward~~] the tax credit.

51 [~~(4)~~] (5) (a) Within a 30-day period after making the report required by Subsection  
52 [~~(3)~~] (4), the commission shall publish a list in accordance with Subsection [~~(4)~~] (5)(b) stating  
53 each tax credit that the commission will remove from a return on which the tax credit appears.

54 (b) The list shall:

55 (i) be published on:

56 (A) the commission's website; and

57 (B) the public legal notice website in accordance with Section [45-1-101](#);

- 58 (ii) include a statement that:
- 59 (A) the commission is required to remove the tax credit from each return on which the
- 60 tax credit appears; and
- 61 (B) the tax credit may not be claimed [~~or carried forward~~] on a return;
- 62 (iii) state the taxable year for which the removal described in Subsection [~~(4)~~] (5)(a)
- 63 takes effect; and
- 64 (iv) remain available for viewing and searching until the commission publishes a new
- 65 list in accordance with this Subsection [~~(4)~~] (5).

66 Section 2. Section **59-10-1002.1** is amended to read:

67 **59-10-1002.1. Removal of tax credit from tax return and prohibition on claiming**  
68 **a tax credit -- Conditions for removal and prohibition on claiming a tax credit --**  
69 **Commission publishing requirements.**

- 70 (1) As used in this section, "tax return" means a tax return filed in accordance with this
- 71 chapter.
- 72 (2) Except as provided in Subsection (4), beginning two taxable years after the
- 73 requirements of Subsection (3) are met:
  - 74 (a) the commission shall remove a tax credit allowed under this part from each tax
  - 75 return on which the tax credit appears; and
  - 76 (b) a claimant, estate, or trust filing a tax return may not claim [~~or carry forward~~] the
  - 77 tax credit.
- 78 (3) Except as provided in Subsection (4), the commission shall remove a tax credit
- 79 allowed under this part from a tax return and a claimant, estate, or trust filing a tax return may
- 80 not claim [~~or carry forward~~] the tax credit as provided in Subsection (2) if:
  - 81 (a) the total amount of the tax credit claimed or carried forward by all claimants,
  - 82 estates, or trusts filing tax returns is less than \$10,000 per year for three consecutive taxable
  - 83 years beginning on or after January 1, 2002; and
  - 84 (b) less than 10 claimants, estates, and trusts per year for the three consecutive taxable
  - 85 years described in Subsection (3)(a), file a tax return claiming or carrying forward the tax

86 credit.

87 (4) This section does not apply to a tax credit under Section [59-10-1006](#) or [59-10-1027](#).

88 (5) The commission shall, on or before the November interim meeting of the year after  
89 the taxable year in which the requirements of Subsection (3) are met, report to the Revenue and  
90 Taxation Interim Committee that in accordance with this section:

91 (a) the commission is required to remove a tax credit from each tax return on which the  
92 tax credit appears; and

93 (b) a claimant, estate, or trust filing a tax return may not claim [~~or carry forward~~] the  
94 tax credit.

95 (6) (a) Within a 30-day period after making the report required by Subsection (5), the  
96 commission shall publish a list in accordance with Subsection (6)(b) stating each tax credit that  
97 the commission will remove from a return on which the tax credit appears.

98 (b) The list shall:

99 (i) be published on:

100 (A) the commission's website; and

101 (B) the public legal notice website in accordance with Section [45-1-101](#);

102 (ii) include a statement that:

103 (A) the commission is required to remove the tax credit from each return on which the  
104 tax credit appears; and

105 (B) the tax credit may not be claimed [~~or carried forward~~] on a return;

106 (iii) state the taxable year for which the removal described in Subsection (6)(a) takes  
107 effect; and

108 (iv) remain available for viewing and searching until the commission publishes a new  
109 list in accordance with this Subsection (6).

110 **Section 3. Retrospective operation.**

111 This bill has retrospective operation for a taxable year beginning on or after January 1,  
112 2016.