

1 **INCOME TAX RATE REDUCTION AMENDMENTS**

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lincoln Fillmore**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to income tax.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ provides for a reduction of the income tax rate when the growth rate of income tax
- 14 revenue exceeds the growth rate of the gross domestic product for Utah;
- 15 ▶ provides a formula and process for calculating a reduction of the income tax rate;
- 16 ▶ requires the State Tax Commission to annually publish the income tax rate; and
- 17 ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **59-1-101**, as last amended by Laws of Utah 2009, Chapter 212

25 **59-7-104**, as last amended by Laws of Utah 2019, Chapter 418

26 **59-7-201**, as last amended by Laws of Utah 2018, Chapter 456

27 **59-7-610**, as last amended by Laws of Utah 2019, Chapter 247



- 28 [59-7-620](#), as last amended by Laws of Utah 2017, Chapter 222
- 29 [59-10-104](#), as last amended by Laws of Utah 2018, Chapter 456
- 30 [59-10-116](#), as last amended by Laws of Utah 2008, Chapters 382 and 389
- 31 [59-10-201](#), as last amended by Laws of Utah 2010, Chapter 6
- 32 [59-10-205](#), as last amended by Laws of Utah 2008, Chapter 389
- 33 [59-10-1007](#), as last amended by Laws of Utah 2019, Chapter 247
- 34 [59-10-1017](#), as last amended by Laws of Utah 2017, Chapter 389
- 35 [59-10-1017.1](#), as enacted by Laws of Utah 2017, Chapter 389
- 36 [59-10-1022](#), as enacted by Laws of Utah 2008, Chapter 389
- 37 [59-10-1023](#), as enacted by Laws of Utah 2008, Chapter 389
- 38 [59-10-1028](#), as last amended by Laws of Utah 2012, Chapter 399
- 39 [59-10-1035](#), as last amended by Laws of Utah 2017, Chapter 222
- 40 [59-10-1036](#), as enacted by Laws of Utah 2016, Chapter 55
- 41 [59-10-1403.3](#), as enacted by Laws of Utah 2017, Chapter 270

42 ENACTS:

- 43 [59-1-1801](#), Utah Code Annotated 1953
- 44 [59-1-1802](#), Utah Code Annotated 1953

45

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

47 Section 1. Section **59-1-101** is amended to read:

48 **59-1-101. Definitions.**

49 As used in this title:

50 (1) "Commission" and "tax commission" mean the State Tax Commission.

51 (2) "Deficiency" is as defined in Section [59-1-1402](#).

52 (3) "Income tax rate" means:

53 (a) for a taxable year beginning before January 1, 2021, 4.95%; or

54 (b) for a taxable year beginning on or after January 1, 2021, the current rate calculated

55 and published in accordance with Part 18, Income Tax Rate.

56 Section 2. Section **59-1-1801** is enacted to read:

57 **Part 18. Income Tax Rate**

58 **59-1-1801. Definitions.**

59 As used in this section:

60 (1) "Consensus entities" means:

61 (a) the Legislative Fiscal Analyst;

62 (b) the commission; and

63 (c) the Governor's Office of Management and Budget.

64 (2) "Income tax revenue growth rate" means the greater of:

65 (a) the amount by which income tax revenue increased in the preceding fiscal year

66 compared to the second preceding fiscal year, expressed as a percentage; and

67 (b) zero.

68 (3) "Gross domestic product for Utah" means the Gross Domestic Product by State for

69 Utah in current dollars published by the Bureau of Economic Analysis, United States

70 Department of Commerce.

71 (4) "Growth rate differential" means the difference between:

72 (a) the income tax revenue growth rate; and

73 (b) the percent change in gross domestic product for Utah.

74 (5) "Percent change in gross domestic product for Utah" means the greater of:

75 (a) the percent change in the gross domestic product for Utah in the preceding fiscal

76 year compared to the second preceding fiscal year; and

77 (b) zero.

78 (6) "Targeted growth rate" means:

79 (a) if the growth rate differential is greater than zero, the income tax revenue growth

80 rate minus one half of the growth rate differential; or

81 (b) if the growth rate differential is less than or equal to zero, the income tax revenue

82 growth rate.

83 Section 3. Section **59-1-1802** is enacted to read:

84 **59-1-1802. Calculation of income tax rate.**

85 (1) (a) Beginning in 2020, after June 30, the consensus entities shall calculate the

86 income tax revenue growth rate and the percent change in gross domestic product for Utah.

87 (b) If, based on the calculations done in accordance with Subsection (1)(a), the income

88 tax revenue growth rate exceeds the percent change in gross domestic product for Utah, the

89 income tax rate for a taxable year beginning on or after January 1 of the upcoming calendar

90 year decreases to a rate, rounded to the nearest hundredth, that would have generated an income
91 tax revenue growth rate equal to the targeted growth rate.

92 (2) No later than November 1 before a taxable year beginning on or after January 1, the
93 commission shall publish the income tax rate for the taxable year.

94 Section 4. Section **59-7-104** is amended to read:

95 **59-7-104. Tax -- Minimum tax.**

96 (1) Each domestic and foreign corporation, except a corporation that is exempt under
97 Section **59-7-102**, shall pay an annual tax to the state based on the corporation's Utah taxable
98 income for the taxable year for the privilege of exercising the corporation's corporate franchise,
99 as defined in Section **59-7-101**, or for the privilege of doing business, as defined in Section
100 **59-7-101**, in the state.

101 (2) The tax [~~shall be 4.95% of a~~] imposed by Subsection (1) is an amount equal to the
102 product of:

103 (a) corporation's Utah taxable income[-]; and

104 (b) the income tax rate.

105 (3) The minimum tax a corporation shall pay under this chapter is \$100.

106 Section 5. Section **59-7-201** is amended to read:

107 **59-7-201. Tax -- Minimum tax.**

108 (1) There is imposed upon each corporation, except a corporation that is exempt under
109 Section **59-7-102**, a tax upon the corporation's Utah taxable income for the taxable year that is
110 derived from sources within this state other than income for any period that the corporation is
111 required to include in the corporation's tax base under Section **59-7-104**.

112 (2) The tax imposed by Subsection (1) [~~shall be 4.95% of a~~] is an amount equal to the
113 product of:

114 (a) corporation's Utah taxable income[-]; and

115 (b) the income tax rate.

116 (3) In no case shall the tax be less than \$100.

117 Section 6. Section **59-7-610** is amended to read:

118 **59-7-610. Recycling market development zones tax credits.**

119 (1) Subject to other provisions of this section, a taxpayer that is a business operating in
120 a recycling market development zone as defined in Section **63N-2-402** may claim the following

121 nonrefundable tax credits:

122 (a) a tax credit [~~of 5% of~~] equal to the product of the income tax rate and the purchase
123 price paid for machinery and equipment used directly in:

124 (i) commercial composting; or

125 (ii) manufacturing facilities or plant units that:

126 (A) manufacture, process, compound, or produce recycled items of tangible personal
127 property for sale; or

128 (B) reduce or reuse postconsumer waste material; and

129 (b) a tax credit equal to the lesser of:

130 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
131 inventory, and utilities made by the taxpayer for establishing and operating recycling or
132 composting technology in Utah; and

133 (ii) \$2,000.

134 (2) (a) To claim a tax credit described in Subsection (1), the taxpayer shall receive
135 from the Governor's Office of Economic Development a written certification, on a form
136 approved by the commission, that includes:

137 (i) a statement that the taxpayer is operating a business within the boundaries of a
138 recycling market development zone;

139 (ii) for claims of the tax credit described in Subsection (1)(a):

140 (A) the type of the machinery and equipment that the taxpayer purchased;

141 (B) the date that the taxpayer purchased the machinery and equipment;

142 (C) the purchase price for the machinery and equipment;

143 (D) the total purchase price for all machinery and equipment for which the taxpayer is
144 claiming a tax credit;

145 (E) a statement that the machinery and equipment are integral to the composting or
146 recycling process; and

147 (F) the amount of the taxpayer's tax credit; and

148 (iii) for claims of the tax credit described in Subsection (1)(b):

149 (A) the type of net expenditure that the taxpayer made to a third party;

150 (B) the date that the taxpayer made the payment to a third party;

151 (C) the amount that the taxpayer paid to each third party;

- 152 (D) the total amount that the taxpayer paid to all third parties;
- 153 (E) a statement that the net expenditures support the establishment and operation of
154 recycling or composting technology in Utah; and
- 155 (F) the amount of the taxpayer's tax credit.
- 156 (b) (i) The Governor's Office of Economic Development shall provide a taxpayer
157 seeking to claim a tax credit under Subsection (1) with a copy of the written certification.
- 158 (ii) The taxpayer shall retain a copy of the written certification for the same period of
159 time that a person is required to keep books and records under Section 59-1-1406.
- 160 (c) The Governor's Office of Economic Development shall submit to the commission
161 an electronic list that includes:
 - 162 (i) the name and identifying information of each taxpayer to which the office issues a
163 written certification; and
 - 164 (ii) for each taxpayer, the amount of each tax credit listed on the written certification.
- 165 (3) A taxpayer may not claim a tax credit under Subsection (1)(a), Subsection (1)(b), or
166 both that exceeds 40% of the taxpayer's state income tax liability as the tax liability is
167 calculated:
 - 168 (a) for the taxable year in which the taxpayer made the purchases or payments;
 - 169 (b) before any other tax credits the taxpayer may claim for the taxable year; and
 - 170 (c) before the taxpayer claiming a tax credit authorized by this section.
- 171 (4) The commission shall make rules governing what information a taxpayer shall file
172 with the commission to verify the entitlement to and amount of a tax credit.
- 173 (5) Except as provided in Subsections (6) through (8), a taxpayer may carry forward, to
174 the next three taxable years, the amount of the tax credit that exceeds the taxpayer's income tax
175 liability for the taxable year.
- 176 (6) A taxpayer may not claim or carry forward a tax credit described in Subsection
177 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under
178 Section 63N-2-213.
- 179 (7) A taxpayer may not claim or carry forward a tax credit described in Subsection
180 (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under
181 Section 63N-2-213.
- 182 (8) A taxpayer may not claim or carry forward a tax credit under this section for a

183 taxable year during which the taxpayer claims the targeted business income tax credit under
184 Section 59-7-624.

185 Section 7. Section 59-7-620 is amended to read:

186 **59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better**
187 **Life Experience Program account.**

188 (1) As used in this section:

189 (a) "Account" means an account in a qualified ABLE program where the designated
190 beneficiary of the account is a resident of this state.

191 (b) "Contributor" means a corporation that:

192 (i) makes a contribution to an account; and

193 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

194 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
195 529A.

196 (d) "Qualified ABLE program" means the same as that term is defined in Section
197 35A-12-102.

198 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
199 this section.

200 (3) Subject to the other provisions of this section, the tax credit is equal to the product
201 of:

202 (a) [~~5%~~] the income tax rate; and

203 (b) the total amount of contributions:

204 (i) the contributor makes for the taxable year; and

205 (ii) for which the contributor receives a statement from the qualified ABLE program
206 itemizing the contributions.

207 (4) A contributor may not claim a tax credit under this section:

208 (a) for an amount of excess contribution to an account that is returned to the
209 contributor; or

210 (b) with respect to an amount the contributor deducts on a federal income tax return.

211 (5) A tax credit under this section may not be carried forward or carried back.

212 Section 8. Section 59-10-104 is amended to read:

213 **59-10-104. Tax basis -- Tax rate -- Exemption.**

214 (1) A tax is imposed on the state taxable income of a resident individual as provided in
215 this section.

216 (2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the
217 product of:

218 (a) the resident individual's state taxable income for that taxable year; and

219 (b) ~~4.95%~~ the income tax rate.

220 (3) This section does not apply to a resident individual exempt from taxation under
221 Section ~~59-10-104.1~~.

222 Section 9. Section ~~59-10-116~~ is amended to read:

223 **~~59-10-116. Tax on nonresident individual -- Calculation -- Exemption.~~**

224 (1) Except as provided in Subsection (2), a tax is imposed on a nonresident individual
225 in an amount equal to the product of ~~the~~:

226 (a) the nonresident individual's state taxable income; and

227 (b) ~~percentage listed in Subsection 59-10-104(2)~~ the income tax rate.

228 (2) This section does not apply to a nonresident individual exempt from taxation under
229 Section ~~59-10-104.1~~.

230 Section 10. Section ~~59-10-201~~ is amended to read:

231 **~~59-10-201. Taxation of resident trusts and estates.~~**

232 (1) Except as provided in Subsection (2), a tax ~~[determined in accordance with the rate~~
233 ~~prescribed by Subsection 59-10-104(2)(b)]~~ is imposed for each taxable year on ~~the state~~
234 ~~taxable income of]~~ each resident estate or trust~~[-]~~ in an amount equal to the product of:

235 (a) the resident estate's or trust's state taxable income; and

236 (b) the income tax rate.

237 (2) The following are not subject to a tax imposed by this part:

238 (a) a resident estate or trust that is not required to file a federal income tax return for
239 estates and trusts for the taxable year; or

240 (b) a resident trust taxed as a corporation.

241 (3) A resident estate or trust shall be allowed the credit provided in Section
242 ~~59-10-1003~~, relating to an income tax imposed by another state, except that the limitation shall
243 be computed by reference to the taxable income of the estate or trust.

244 (4) The property of the Utah Educational Savings Plan established in Title 53B,

245 Chapter 8a, Utah Educational Savings Plan, and its income from operations and investments
246 are exempt from all taxation by the state under this chapter.

247 Section 11. Section **59-10-205** is amended to read:

248 **59-10-205. Tax on nonresident estate or trust.**

249 (1) Except as provided in Subsection (2), a tax is imposed on a nonresident estate or
250 trust in an amount equal to the product of:

251 (a) the nonresident estate's or trust's state taxable income as determined under Section
252 [59-10-204](#); and

253 (b) the ~~[percentage listed in Subsection [59-10-104](#)(2)]~~ income tax rate.

254 (2) The following are not subject to a tax imposed by this part:

255 (a) a nonresident estate or trust that is not required to file a federal income tax return
256 for estates and trusts for the taxable year; or

257 (b) a nonresident trust taxed as a corporation.

258 Section 12. Section **59-10-1007** is amended to read:

259 **59-10-1007. Recycling market development zones tax credits.**

260 (1) Subject to other provisions of this section, a claimant, estate, or trust in a recycling
261 market development zone as defined in Section [63N-2-402](#) may claim the following
262 nonrefundable tax credits:

263 (a) a tax credit ~~[of 5% of]~~ equal to the product of the income tax rate and the purchase
264 price paid for machinery and equipment used directly in:

265 (i) commercial composting; or

266 (ii) manufacturing facilities or plant units that:

267 (A) manufacture, process, compound, or produce recycled items of tangible personal
268 property for sale; or

269 (B) reduce or reuse postconsumer waste material; and

270 (b) a tax credit equal to the lesser of:

271 (i) 20% of net expenditures to third parties for rent, wages, supplies, tools, test
272 inventory, and utilities made by the claimant, estate, or trust for establishing and operating

273 recycling or composting technology in Utah; and

274 (ii) \$2,000.

275 (2) (a) To claim a tax credit described in Subsection (1), the claimant, estate, or trust

276 shall receive from the Governor's Office of Economic Development a written certification, on a
277 form approved by the commission, that includes:

278 (i) a statement that the claimant, estate, or trust is operating within the boundaries of a
279 recycling market development zone;

280 (ii) for claims of the tax credit described in Subsection (1)(a):

281 (A) the type of the machinery and equipment that the claimant, estate, or trust
282 purchased;

283 (B) the date that the claimant, estate, or trust purchased the machinery and equipment;

284 (C) the purchase price for the machinery and equipment;

285 (D) the total purchase price for all machinery and equipment for which the claimant,
286 estate, or trust is claiming a tax credit;

287 (E) the amount of the claimant's, estate's, or trust's tax credit; and

288 (F) a statement that the machinery and equipment are integral to the composting or
289 recycling process; and

290 (iii) for claims of the tax credit described in Subsection (1)(b):

291 (A) the type of net expenditure that the claimant, estate, or trust made to a third party;

292 (B) the date that the claimant, estate, or trust made the payment to a third party;

293 (C) the amount that the claimant, estate, or trust paid to each third party;

294 (D) the total amount that the claimant, estate, or trust paid to all third parties;

295 (E) a statement that the net expenditures support the establishment and operation of
296 recycling or composting technology in Utah; and

297 (F) the amount of the claimant's, estate's, or trust's tax credit.

298 (b) (i) The Governor's Office of Economic Development shall provide a claimant,
299 estate, or trust seeking to claim a tax credit under Subsection (1) with a copy of the written
300 certification.

301 (ii) The claimant, estate, or trust shall retain a copy of the written certification for the
302 same period of time that a person is required to keep books and records under Section
303 [59-1-1406](#).

304 (c) The Governor's Office of Economic Development shall submit to the commission
305 an electronic list that includes:

306 (i) the name and identifying information of each claimant, estate, or trust to which the

307 office issues a written certification; and

308 (ii) for each claimant, estate, or trust, the amount of each tax credit listed on the written
309 certification.

310 (3) A claimant, estate, or trust may not claim a tax credit under Subsection (1)(a),
311 Subsection (1)(b), or both that exceeds 40% of the claimant's, estate's, or trust's state income
312 tax liability as the tax liability is calculated:

313 (a) for the taxable year in which the claimant, estate, or trust made the purchases or
314 payments;

315 (b) before any other tax credits the claimant, estate, or trust may claim for the taxable
316 year; and

317 (c) before the claimant, estate, or trust claiming a tax credit authorized by this section.

318 (4) The commission shall make rules governing what information a claimant, estate, or
319 trust shall file with the commission to verify the entitlement to and amount of a tax credit.

320 (5) Except as provided in Subsections (6) through (8), a claimant, estate, or trust may
321 carry forward, to the next three taxable years, the amount of the tax credit that exceeds the
322 taxpayer's income tax liability for the taxable year.

323 (6) A claimant, estate, or trust may not claim or carry forward a tax credit described in
324 Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries
325 forward a tax credit under Section 63N-2-213.

326 (7) A claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b)
327 in a taxable year during which the claimant, estate, or trust claims or carries forward a tax
328 credit under Section 63N-2-213.

329 (8) A claimant, estate, or trust may not claim or carry forward a tax credit available
330 under this section for a taxable year during which the claimant, estate, or trust claims the
331 targeted business income tax credit under Section 59-10-1112.

332 Section 13. Section 59-10-1017 is amended to read:

333 **59-10-1017. Utah Educational Savings Plan tax credit.**

334 (1) As used in this section:

335 (a) "Account owner" means the same as that term is defined in Section 53B-8a-102.

336 (b) "Grantor trust" means the same as that term is defined in Section 53B-8a-102.5.

337 (c) "Higher education costs" means the same as that term is defined in Section

338 53B-8a-102.5.

339 (d) "Maximum amount of a qualified investment for the taxable year" means, for a
340 taxable year, the product of [~~5%~~] the income tax rate and:

341 (i) subject to Subsection (1)(d)(iii), for a claimant, estate, or trust that is an account
342 owner, if that claimant, estate, or trust is other than husband and wife account owners who file
343 a single return jointly, the maximum amount of a qualified investment:

344 (A) listed in Subsection 53B-8a-106(1)(e)(ii); and

345 (B) increased or kept for that taxable year in accordance with Subsections

346 53B-8a-106(1)(f) and (g);

347 (ii) subject to Subsection (1)(d)(iii), for claimants who are husband and wife account
348 owners who file a single return jointly, the maximum amount of a qualified investment:

349 (A) listed in Subsection 53B-8a-106(1)(e)(iii); and

350 (B) increased or kept for that taxable year in accordance with Subsections

351 53B-8a-106(1)(f) and (g); or

352 (iii) for a grantor trust:

353 (A) if the owner of the grantor trust has a single filing status or head of household
354 filing status as defined in Section 59-10-1018, the amount described in Subsection (1)(d)(i); or

355 (B) if the owner of the grantor trust has a joint filing status as defined in Section

356 59-10-1018, the amount described in Subsection (1)(d)(ii).

357 (e) "Owner of the grantor trust" means the same as that term is defined in Section

358 53B-8a-102.5.

359 (f) "Qualified investment" means the same as that term is defined in Section

360 53B-8a-102.5.

361 (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of
362 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax
363 credit equal to the product of:

364 (a) the amount of a qualified investment made:

365 (i) during the taxable year; and

366 (ii) into an account owned by the claimant, estate, or trust; and

367 (b) [~~5%~~] the income tax rate.

368 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may

369 make a qualified investment described in Subsection (2).

370 (4) A claimant, estate, or trust that is an account owner may not claim a tax credit
371 under this section with respect to any portion of a qualified investment described in Subsection
372 (2) that a claimant, estate, trust, or person described in Subsection (3) deducts on a federal
373 income tax return.

374 (5) A tax credit under this section may not exceed the maximum amount of a qualified
375 investment for the taxable year.

376 (6) A claimant, estate, or trust that is an account owner may not carry forward or carry
377 back the tax credit under this section.

378 (7) A claimant, estate, or trust may claim a tax credit under this section in addition to
379 the tax credit described in Section [59-10-1017.1](#).

380 Section 14. Section **59-10-1017.1** is amended to read:

381 **59-10-1017.1. Student Prosperity Savings Program tax credit.**

382 (1) As used in this section, "qualified donation" means an amount donated, in
383 accordance with Section [53B-8a-203](#), to the Student Prosperity Savings Program created in
384 Section [53B-8a-202](#).

385 (2) A claimant, estate, or trust may claim a nonrefundable tax credit for a qualified
386 donation.

387 (3) The tax credit equals the product of:

388 (a) the qualified donation; and

389 (b) [~~5%~~] the income tax rate.

390 (4) A claimant, estate, or trust may not claim a tax credit under this section with
391 respect to any portion of a qualified donation that a claimant, estate, or trust deducts on a
392 federal income tax return.

393 (5) A claimant, estate, or trust may not carry forward or carry back the portion of the
394 tax credit allowed by this section that exceeds the claimant's, estate's, or trust's tax liability for
395 the taxable year in which the claimant, estate, or trust claims the tax credit.

396 (6) A claimant, estate, or trust may claim a tax credit under this section in addition to
397 the tax credit described in Section [59-10-1017](#).

398 Section 15. Section **59-10-1022** is amended to read:

399 **59-10-1022. Nonrefundable tax credit for capital gain transactions.**

- 400 (1) As used in this section:
- 401 (a) (i) "Capital gain transaction" means a transaction that results in a:
- 402 (A) short-term capital gain; or
- 403 (B) long-term capital gain.
- 404 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 405 commission may by rule define the term "transaction."
- 406 (b) "Commercial domicile" means the principal place from which the trade or business
- 407 of a Utah small business corporation is directed or managed.
- 408 (c) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- 409 (d) "Qualifying stock" means stock that is:
- 410 (i) (A) common; or
- 411 (B) preferred;
- 412 (ii) as defined by the commission by rule made in accordance with Title 63G, Chapter
- 413 3, Utah Administrative Rulemaking Act, originally issued to:
- 414 (A) a claimant, estate, or trust; or
- 415 (B) a partnership if the claimant, estate, or trust that claims a tax credit under this
- 416 section:
- 417 (I) was a partner on the day on which the stock was issued; and
- 418 (II) remains a partner until the last day of the taxable year for which the claimant,
- 419 estate, or trust claims a tax credit under this section; and
- 420 (iii) issued:
- 421 (A) by a Utah small business corporation;
- 422 (B) on or after January 1, 2008; and
- 423 (C) for:
- 424 (I) money; or
- 425 (II) other property, except for stock or securities.
- 426 (e) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.
- 427 (f) (i) "Utah small business corporation" means a corporation that:
- 428 (A) except as provided in Subsection (1)(f)(ii), is a small business corporation as
- 429 defined in Section 1244(c)(3), Internal Revenue Code;
- 430 (B) except as provided in Subsection (1)(f)(iii), meets the requirements of Section

431 1244(c)(1)(C), Internal Revenue Code; and

432 (C) has its commercial domicile in this state.

433 (ii) The dollar amount listed in Section 1244(c)(3)(A) is considered to be \$2,500,000.

434 (iii) The phrase "the date the loss on such stock was sustained" in Sections
435 1244(c)(1)(C) and 1244(c)(2), Internal Revenue Code, is considered to be "the last day of the
436 taxable year for which the claimant, estate, or trust claims a tax credit under this section."

437 (2) For taxable years beginning on or after January 1, 2008, a claimant, estate, or trust
438 that meets the requirements of Subsection (3) may claim a nonrefundable tax credit equal to the
439 product of:

440 (a) the total amount of the claimant's, estate's, or trust's short-term capital gain or
441 long-term capital gain on a capital gain transaction that occurs on or after January 1, 2008; and

442 (b) [~~5%~~] the income tax rate.

443 (3) For purposes of Subsection (2), a claimant, estate, or trust may claim the
444 nonrefundable tax credit allowed by Subsection (2) if:

445 (a) 70% or more of the gross proceeds of the capital gain transaction are expended:

446 (i) to purchase qualifying stock in a Utah small business corporation; and

447 (ii) within a 12-month period after the day on which the capital gain transaction occurs;

448 and

449 (b) prior to the purchase of the qualifying stock described in Subsection (3)(a)(i), the
450 claimant, estate, or trust did not have an ownership interest in the Utah small business
451 corporation that issued the qualifying stock.

452 (4) A claimant, estate, or trust may not carry forward or carry back a tax credit under
453 this section.

454 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
455 commission may make rules:

456 (a) defining the term "gross proceeds"; and

457 (b) prescribing the circumstances under which a claimant, estate, or trust has an
458 ownership interest in a Utah small business corporation.

459 Section 16. Section **59-10-1023** is amended to read:

460 **59-10-1023. Nonrefundable tax credit for amounts paid under a health benefit**
461 **plan.**

- 462 (1) As used in this section:
- 463 (a) "Claimant with dependents" means a claimant:
- 464 (i) regardless of the claimant's filing status for purposes of filing a federal individual
- 465 income tax return for the taxable year; and
- 466 (ii) who claims one or more dependents under Section 151, Internal Revenue Code, as
- 467 allowed on the claimant's federal individual income tax return for the taxable year.
- 468 (b) "Eligible insured individual" means:
- 469 (i) the claimant who is insured under a health benefit plan;
- 470 (ii) the spouse of the claimant described in Subsection (1)(b)(i) if:
- 471 (A) the claimant files a single return jointly under this chapter with the claimant's
- 472 spouse for the taxable year; and
- 473 (B) the spouse is insured under the health benefit plan described in Subsection
- 474 (1)(b)(i); or
- 475 (iii) a dependent of the claimant described in Subsection (1)(b)(i) if:
- 476 (A) the claimant claims the dependent under Section 151, Internal Revenue Code, as
- 477 allowed on the claimant's federal individual income tax return for the taxable year; and
- 478 (B) the dependent is insured under the health benefit plan described in Subsection
- 479 (1)(b)(i).
- 480 (c) "Excluded expenses" means an amount a claimant pays for insurance offered under
- 481 a health benefit plan for a taxable year if:
- 482 (i) the claimant claims a tax credit for that amount under Section 35, Internal Revenue
- 483 Code:
- 484 (A) on the claimant's federal individual income tax return for the taxable year; and
- 485 (B) with respect to an eligible insured individual;
- 486 (ii) the claimant deducts that amount under Section 162 or 213, Internal Revenue
- 487 Code:
- 488 (A) on the claimant's federal individual income tax return for the taxable year; and
- 489 (B) with respect to an eligible insured individual; or
- 490 (iii) the claimant excludes that amount from gross income under Section 106 or 125,
- 491 Internal Revenue Code, with respect to an eligible insured individual.
- 492 (d) (i) "Health benefit plan" is as defined in Section [31A-1-301](#).

493 (ii) "Health benefit plan" does not include equivalent self-insurance as defined by the
494 Insurance Department by rule made in accordance with Title 63G, Chapter 3, Utah
495 Administrative Rulemaking Act.

496 (e) "Joint claimant with no dependents" means a husband and wife who:

497 (i) file a single return jointly under this chapter for the taxable year; and

498 (ii) do not claim a dependent under Section 151, Internal Revenue Code, on the
499 husband's and wife's federal individual income tax return for the taxable year.

500 (f) "Single claimant with no dependents" means:

501 (i) a single individual who:

502 (A) files a single federal individual income tax return for the taxable year; and

503 (B) does not claim a dependent under Section 151, Internal Revenue Code, on the
504 single individual's federal individual income tax return for the taxable year;

505 (ii) a head of household:

506 (A) as defined in Section 2(b), Internal Revenue Code, who files a single federal
507 individual income tax return for the taxable year; and

508 (B) who does not claim a dependent under Section 151, Internal Revenue Code, on the
509 head of household's federal individual income tax return for the taxable year; or

510 (iii) a married individual who:

511 (A) does not file a single federal individual income tax return jointly with that married
512 individual's spouse for the taxable year; and

513 (B) does not claim a dependent under Section 151, Internal Revenue Code, on that
514 married individual's federal individual income tax return for the taxable year.

515 (2) Subject to Subsection (3), and except as provided in Subsection (4), for taxable
516 years beginning on or after January 1, 2009, a claimant may claim a nonrefundable tax credit
517 equal to the product of:

518 (a) the difference between:

519 (i) the total amount the claimant pays during the taxable year for:

520 (A) insurance offered under a health benefit plan; and

521 (B) an eligible insured individual; and

522 (ii) excluded expenses; and

523 (b) [5%] the income tax rate.

524 (3) The maximum amount of a tax credit described in Subsection (2) a claimant may
525 claim on a return for a taxable year is:

- 526 (a) for a single claimant with no dependents, \$300;
- 527 (b) for a joint claimant with no dependents, \$600; or
- 528 (c) for a claimant with dependents, \$900.

529 (4) A claimant may not claim a tax credit under this section if the claimant is eligible to
530 participate in insurance offered under a health benefit plan maintained and funded in whole or
531 in part by:

- 532 (a) the claimant's employer; or
- 533 (b) another person's employer.

534 (5) A claimant may not carry forward or carry back a tax credit under this section.

535 Section 17. Section **59-10-1028** is amended to read:

536 **59-10-1028. Nonrefundable tax credit for capital gain transactions on the**
537 **exchange of one form of legal tender for another form of legal tender.**

538 (1) As used in this section:

539 (a) "Capital gain transaction" means a transaction that results in a:

- 540 (i) short-term capital gain; or
- 541 (ii) long-term capital gain.

542 (b) "Long-term capital gain" is as defined in Section 1222, Internal Revenue Code.

543 (c) "Long-term capital loss" is as defined in Section 1222, Internal Revenue Code.

544 (d) "Net capital gain" means the amount by which the sum of long-term capital gains
545 and short-term capital gains on a claimant's, estate's, or trust's transactions from exchanges
546 made for a taxable year of one form of legal tender for another form of legal tender exceeds the
547 sum of long-term capital losses and short-term capital losses on those transactions for that
548 taxable year.

549 (e) "Short-term capital loss" is as defined in Section 1222, Internal Revenue Code.

550 (f) "Short-term capital gain" is as defined in Section 1222, Internal Revenue Code.

551 (2) Except as provided in Section [59-10-1002.2](#), for taxable years beginning on or after
552 January 1, 2012, a claimant, estate, or trust may claim a nonrefundable tax credit equal to the
553 product of:

554 (a) to the extent a net capital gain is included in taxable income, the amount of the

555 claimant's, estate's, or trust's net capital gain on capital gain transactions from exchanges made
556 on or after January 1, 2012, for a taxable year, of one form of legal tender for another form of
557 legal tender; and

558 (b) [5%] the income tax rate.

559 (3) A claimant, estate, or trust may not carry forward or carry back a tax credit under
560 this section.

561 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
562 commission may make rules to implement this section.

563 Section 18. Section **59-10-1035** is amended to read:

564 **59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**
565 **Life Experience Program account.**

566 (1) As used in this section:

567 (a) "Account" means an account in a qualified ABLE program where the designated
568 beneficiary of the account is a resident of this state.

569 (b) "Contributor" means a claimant, estate, or trust that:

570 (i) makes a contribution to an account; and

571 (ii) receives a statement from the qualified ABLE program itemizing the contribution.

572 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
573 529A.

574 (d) "Qualified ABLE program" means the same as that term is defined in Section
575 [35A-12-102](#).

576 (2) A contributor to an account may claim a nonrefundable tax credit as provided in
577 this section.

578 (3) Subject to the other provisions of this section, the tax credit is equal to the product
579 of:

580 (a) [5%] the income tax rate; and

581 (b) the total amount of contributions:

582 (i) the contributor makes for the taxable year; and

583 (ii) for which the contributor receives a statement from the qualified ABLE program
584 itemizing the contributions.

585 (4) A contributor may not claim a tax credit under this section:

586 (a) for an amount of excess contribution to an account that is returned to the
587 contributor; or

588 (b) with respect to an amount the contributor deducts on a federal income tax return.

589 (5) A tax credit under this section may not be carried forward or carried back.

590 Section 19. Section **59-10-1036** is amended to read:

591 **59-10-1036. Nonrefundable tax credit for military survivor benefits.**

592 (1) As used in this section:

593 (a) "Dependent child" means the same as that term is defined in 10 U.S.C. Sec. 1447.

594 (b) "Reserve components" means the same as that term is described in 10 U.S.C. Sec.
595 10101.

596 (c) "Surviving spouse" means the same as that term is defined in 10 U.S.C. Sec. 1447.

597 (d) "Survivor benefits" means the amount paid by the federal government in
598 accordance with 10 U.S.C. Secs. 1447 through 1455.

599 (2) A surviving spouse or dependent child may claim a nonrefundable tax credit for
600 survivor benefits if the benefits are paid due to:

601 (a) the death of a member of the armed forces or reserve components while on active
602 duty; or

603 (b) the death of a member of the reserve components that results from a
604 service-connected cause while performing inactive duty training.

605 (3) The tax credit described in Subsection (2) is equal to the product of:

606 (a) the amount of survivor benefits that the surviving spouse or dependent child
607 received during the taxable year; and

608 (b) [~~5%~~] the income tax rate.

609 (4) The tax credit described in Subsection (2):

610 (a) may not be carried forward or carried back; and

611 (b) applies to a taxable year beginning on or after January 1, 2017.

612 Section 20. Section **59-10-1403.3** is amended to read:

613 **59-10-1403.3. Refund of amounts paid or withheld for a pass-through entity.**

614 (1) As used in this section:

615 (a) "Committee" means the Revenue and Taxation Interim Committee.

616 (b) "Qualifying excess withholding" means an amount that:

617 (i) is paid or withheld:

618 (A) by a pass-through entity that has a different taxable year than the pass-through
619 entity that requests a refund under this section; and

620 (B) on behalf of the pass-through entity that requests the refund, if the pass-through
621 entity that requests the refund also is a pass-through entity taxpayer; and

622 (ii) is equal to the difference between:

623 (A) the amount paid or withheld for the taxable year on behalf of the pass-through
624 entity that requests the refund; and

625 (B) the product of [5%] the income tax rate and the income, described in Subsection
626 [59-10-1403.2\(1\)\(a\)\(i\)](#), of the pass-through entity that requests the refund.

627 (2) For a taxable year ending on or after July 1, 2017, a pass-through entity may claim
628 a refund of qualifying excess withholding, if the amount of the qualifying excess withholding is
629 equal to or greater than \$250,000.

630 (3) A pass-through entity that requests a refund of qualifying excess withholding under
631 this section shall:

632 (a) apply to the commission for a refund on or, subject to Subsection (4), after the day
633 on which the pass-through entity files the pass-through entity's income tax return; and

634 (b) provide any information that the commission may require to determine that the
635 pass-through entity is eligible to receive the refund.

636 (4) A pass-through entity shall claim a refund of qualifying excess withholding under
637 this section within 30 days after the earlier of the day on which:

638 (a) the pass-through entity files an income tax return; or

639 (b) the pass-through entity's income tax return is due, including any extension of due
640 date authorized in statute.

641 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
642 commission may make rules establishing the information that a pass-through entity shall
643 provide to the commission to obtain a refund of qualifying excess withholding under this
644 section.

645 (6) (a) On or before November 30, 2018, the committee shall review the \$250,000
646 threshold described in Subsection (2) for the purpose of assessing whether the threshold
647 amount should be maintained, increased, or decreased.

648 (b) To assist the committee in conducting the review described in Subsection (6)(a),
649 the commission shall provide the committee with:
650 (i) the total number of refund requests made under this section;
651 (ii) the total costs of any refunds issued under this section;
652 (iii) the costs of any audits conducted on refund requests made under this section; and
653 (iv) an estimation of:
654 (A) the number of refund requests the commission expects to receive if the Legislature
655 increases the threshold;
656 (B) the number of refund requests the commission expects to receive if the Legislature
657 decreases the threshold; and
658 (C) the costs of any audits the commission would conduct if the Legislature increases
659 or decreases the threshold.