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Utah State Tax Commission

**Utah Fiduciary Income Tax
Return And Instructions**

TC-41

210 North 1950 West
Salt Lake City, Utah 84134
(801) 297-2200
1-800-662-4335
tax.utah.gov

2004

General Instructions and Information

Who Must File

A fiduciary of a resident estate or trust, or a fiduciary of a nonresident estate or trust with income derived from Utah sources, if required to file a federal Fiduciary Income Tax Return, must file a Utah Fiduciary Income Tax Return (form TC-41). A complete copy of the federal Fiduciary Income Tax Return, form 1041 or 1041-QFT (including copies of all applicable schedules such as Schedules A, B, C, D, E, F, G, I, J and K-1) must be attached to the Utah return.

Fiduciary and Estate Defined

The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator or any person acting in any fiduciary capacity for any individual or entity. The term "estate" refers only to the estate of a deceased person and does not include a trust maintained for minors, for a person adjudicated incompetent, or for any person who is suffering from some other legal disability.

Note: Throughout these instructions, any reference to "you" means the fiduciary of the estate or trust.

Domicile Defined

"Domicile" is the place where an individual has a permanent home and to which he intends to return after being absent. It is the place at which an individual has voluntarily fixed his habitation, not for a special or temporary purpose, but with the intent of making a permanent home. A domicile, once established, is not lost until each of the following three elements are met: 1) a specific intent to abandon the former domicile; 2) the actual physical presence in a new domicile; and 3) the intent to remain in the new domicile permanently.

For more information on determining domicile/residency, see Tax Commission rules R865-9I-2 and R884-24P-52. Visit our website at incometax.utah.gov.

Resident Estate and Resident Trust Defined

"Resident estate" or "resident trust" means:

1. An estate of a decedent who, at his death, was domiciled in this state;
2. A trust, or a portion of a trust, consisting of property transferred by will of a decedent who at his death was domiciled in this state; or
3. A trust administered in this state. A trust shall be considered to be administered in this state if:
 - a. The place of business where the fiduciary transacts a major portion of its administration of the trust is in this state; or
 - b. The usual place of business of the fiduciary is in this state.

Nonresident Estate and Nonresident Trust Defined

The terms "nonresident estate" or "nonresident trust" are defined as estates or trusts that are not resident estates or trusts.

Exempt Trusts Defined

A trust exempt from federal income tax is exempt from Utah income tax unless there is unrelated business income in Utah.

When to File

You must file your return and pay any income tax due:

1. By April 15, 2005, if you file on a 2004 calendar year basis (tax year ends December 31, 2004); or
2. By the 15th day of the fourth month following the close of the fiscal year, if you file on a fiscal year basis.

All Utah income taxes for the year 2004 must be paid by the due date. If your return is not filed on time, you may be subject to penalties and interest. (See "Penalties and Interest" instructions on page 3.)

Extension of Time for Filing Return

There is NO extension of time to pay your taxes – only an extension of time to file your tax return.

You are automatically allowed an extension of up to six months to file your return without filing an extension form. *However, if the prepayment requirements (see below) are not met on or before the original due date (April 15th) penalties will be assessed.* (See "Penalties" and "Interest" instructions on page 3.) All extension returns must be filed by October 17, 2005.

Where to File

Mail your return and/or payment to:

Utah State Tax Commission
210 N 1950 W
SLC, UT 84134-0250

Recordkeeping and Documentation

Keep copies of any receipts, state forms, worksheets, credit authorization forms and other documentation to support any income, deductions, exemptions and credits you have reported on your return.

Prepayment Requirements

The required prepayment must equal:

- Ninety percent (90%) of the tax due for 2004 or;
- One hundred percent (100%) of the amount of the 2003 Utah tax liability as indicated on *line 11 of the 2003 Utah Fiduciary Income Tax Return.*

A prepayment may be in the form of withholding (W-2, TC-675R, TC-675M, etc.), tax credit, and/or payment made on or before the tax due date using form TC-548,

"Prepayment of Fiduciary Tax." Interest will be assessed on unpaid tax from the filing due date until the tax is paid in full. Penalties may also be assessed.

Amended Returns

To amend, use the tax form and instructions for the year you are amending.

Amend your return promptly if:

- An error is discovered on your state or federal return after it has been filed; or
- Your federal return is audited or adjusted by the IRS and the IRS audit or adjustment affects your state return. You must amend your state return within 90 days of the IRS's final determination. If you are unsure whether or not your state taxes are affected by an audit or adjustment, contact the Tax Commission.

Generally, an amended return must be filed within three years following the date the original return was due to qualify for a refund or a credit. A return filed before the due date is considered filed on the due date. If an amended return must be filed based on changes made by the IRS, a claim for refund or credit must be made within two years after a Utah amended return was required to be filed.

How to Amend a 2004 Utah Income Tax Return

- A. Enter a number in the box titled "For Amended Return - Enter code (1-5)" that best corresponds to your "**Reason For Amending.**" See codes below.

Reasons For Amending (enter number on return)

- 1 You filed an amended return with the IRS (attach a copy of your amended federal return).
- 2 You made an error on your state return (attach an explanation of the error).
- 3 Your tax calculation was changed by an IRS audit and/or adjustment (attach a copy of the IRS adjustment).
- 4 You had a net operating loss. Utah treats net operating losses in the same manner as the federal return. If your amended return is the result of a carryback net operating loss, complete an income tax return for each year you are amending (attach a copy of your amended federal return).
- 5 Other (attach explanation to return).

- B. Complete the return by entering the corrected figures.
- C. Enter other amounts shown on your original return. If you received a refund on your original return, enter the amount of previous refunds on line 16 of the 2004 amended return. If you paid with the original return or made subsequent payments of the tax prior to filing the amended return, enter the total previous payments on line 21 of the 2004 return.

Remember: Except for the amounts you amend, all other amounts on the return must match the amounts on those lines on the original return.

Period to be Covered by Return

The first return filed by an administrator or executor of an estate must cover the period from the date of death of the decedent to the end of the first tax year selected by the fiduciary. The first return filed by a fiduciary of a trust must cover the period beginning with the creation of the trust to the end of the first tax year selected by the fiduciary. Returns must be filed for each subsequent year that the estate or trust is in existence. The taxable year cannot be longer than 12 months and must coincide with the tax year selected for purposes of filing the federal return. The accounting methods used for federal fiduciary income tax purposes must be the same for Utah fiduciary income tax purposes.

FINAL RETURN: Check the box provided in the top left corner of the return, if this is a final return.

Additions and Subtractions for State Taxes, and Interest on U.S. Government Obligations Allocated to Beneficiaries

The estate or trust must include the full amount of each of these items. The amounts of the state tax addback and the interest on U.S. government obligations that are allocated to beneficiaries, as explained below, are entered on line 5, code 50 and line 8, code 71 of the return.

The respective shares of an estate or trust and its beneficiaries (including an estate or trust that is a beneficiary of another estate or trust) in the state tax addback and interest on U.S. government obligations shall be in proportion to their respective shares of federal distributable net income of the estate or trust. If the estate or trust has no federal distributable net income for the taxable year, the share of each beneficiary in the state tax addback and U.S. government obligations shall be in proportion to its share of the estate or trust income for that year, which is, under state law or the governing instrument, required to be distributed currently, plus any other amounts of such income distributed in that year.

Amounts Reportable as Utah Income by the Beneficiaries

Resident beneficiaries will report to Utah the income from the estate or trust included in the beneficiary's federal adjusted gross income as though the beneficiary received the income directly. The residence of the estate or trust does not affect the source of income for computing the beneficiary's Utah individual income tax. Nonresident beneficiaries must file Utah income tax returns and report that portion of their distribution that was derived from Utah sources (see instructions for Schedule A, following the line-by-line instructions).

Payment of Tax

The tax due must be paid in full with the return. Make check or money order payable to the Utah State Tax Commission.

Penalties

Utah law provides for uniform tax penalties for failure to file tax returns, failure to pay tax due, and failure to file information returns or supporting schedules.

The penalty for **failure to file a tax due return** by the due date is the greater of \$20 or 10 percent of the unpaid tax. If a tax balance is still unpaid 90 days after the due date, a second penalty of \$20 or 10 percent of the unpaid tax, whichever is greater, will be added for failure to pay timely.

The penalty for **failure to pay tax due** as reported on a timely filed return, or within 30 days of a notice of deficiency, is \$20 or 10 percent of the tax due, whichever is greater.

The penalty for **underpayment of an extension prepayment** is 2 percent per month of the unpaid tax during the extension period. If the return is not filed by the extension due date, failure to file and failure to pay penalties will apply, as if the extension had not been granted.

For a list of additional penalties that may be imposed, refer to UCA §59-1-401 and Pub 58.

Interest

Interest will be assessed at the rate prescribed by law from the original due date until any outstanding liability is paid in full. The interest rate for most taxes and fees administered by the Tax Commission for the 2005 calendar year is **4 percent**. Pub 58, which contains applicable interest rates, is available on the Internet at **tax.utah.gov** or by calling or writing the Tax Commission.

The Tax Commission will bill the taxpayer if any penalty or interest is owed.

Interest is in addition to any penalties due.

Rounding Off to Whole Dollar Amounts

Round off cents to the nearest whole dollar. Round down if cents are under 50 cents; round up if cents are 50 cents and above. **Do not enter cents anywhere on the return.**

Line-By-Line Instructions

Heading

Print or type the information requested in the spaces provided. Enter the full name of the estate or trust. The federal employer identification number (or social security number if the fiduciary is an individual) is required for both the estate or trust and the fiduciary.

Line 1 – Type of Return

Check the appropriate box that describes the entity for which you are filing the return. The type of return must match the type of entity indicated in part A of the federal Form 1041. For “pooled” income funds, check box H, “Charitable trust.”

Taxpayers filing Electing Small Business Trust (ESBT) returns must follow the instructions for lines 4 and 5. Federal taxable income is reported on line 4; the separate S portion of the taxable income is reported on line 5, code 58.

All taxpayers filing a federal form 1041-QFT need to attach a copy of that form and all schedules to the “Utah Fiduciary Income Tax Return,” form TC-41. The general instructions on how to file a return for a Qualified Funeral Trust are located on pages 13 and 14.

Line 2 – Status of Estate or Trust

Check the appropriate box that describes the status of the estate or trust. Refer to the General Instructions to determine if the estate or trust is a resident or nonresident entity.

Line 3 – Nonresident Beneficiaries

If any beneficiary of the trust is not a resident of Utah, check the box. If all the beneficiaries are residents of Utah, leave the box blank.

Resident defined

A trust beneficiary is a Utah resident if:

1. Domiciled for the entire year in Utah, even though temporarily outside of Utah for an extended period of time - even years in certain situations;
2. Domiciled in Utah for any period of time during the taxable year, but only for the duration of that period; or
3. Even though domiciled outside Utah, maintains a permanent place of abode within the state and spends a total of 183 days or more of the taxable year within Utah.

Part-year resident defined

A trust beneficiary is a part-year Utah resident if domiciled in Utah for part of the taxable year and domiciled outside of Utah for part of the taxable year. For purposes of this line only, the box should be checked if a beneficiary is a part-year resident.

Nonresident defined

A trust beneficiary is a Utah nonresident if that beneficiary is not domiciled in Utah, or was in Utah for a temporary or transitory purpose for less than 183 days during the taxable year.

Line 4 – Federal Taxable Income

If you checked the box marked “resident” on line 2, enter the amount of federal taxable income from form 1041, line 22 or form 1041-QFT, line 12. **If you checked the box marked “nonresident” on line 2,** enter the amount from Utah form TC-41, Schedule A, line 10. Instructions for Schedule A are on page 12.

Line 5 - Additions to Income

Write the **code and amount** of each addition to income you are required to report on lines 5a through 5f. Enter the sum of all “additions to income” on line 5. An explanation of each addition follows the list below.

Codes for lines 5a through 5f

- 50 Interest on U.S. Obligations Allocated to Beneficiaries
- 57 Municipal Bond Interest
- 58 ESBT S Corporation Income
- 59 State Income Taxes Deducted on Federal Return

(50) Interest on U.S. Government Obligations Allocated to Beneficiaries

Include all interest on U.S. government obligations allocated to beneficiaries. See *“Additions and Subtractions for State Taxes, and Interest on U.S. Government Obligations Allocated to Beneficiaries,”* in the General Instructions. Keep all related documents with your records.

(57) Municipal Bond Interest

Interest from certain bonds, notes and other evidences of indebtedness (commonly known as municipal bonds) issued by non-federal governmental entities outside Utah will be subject to Utah’s income tax if acquired after January 1, 2003. However, interest earned on non-Utah municipal bonds will not be subject to Utah tax if the state (or political subdivision) issuing the bonds does not impose a tax based on income on bonds issued by Utah. For detailed information and a reciprocity list, visit the Tax Commission website, incometax.utah.gov.

(58) ESBT S Corporation Income

Electing Small Business Trusts (ESBTs) must report the separate S portion of the taxable income, as calculated on the attachment to federal form 1041.

(59) State Income Taxes Deducted on Federal Return

If the fiduciary claimed any **income taxes** paid to Utah or any state, the District of Columbia, or a possession of the United States, as a deduction on the federal fiduciary return (line 11 of federal form 1041 or line 6

of form 1041-QFT), the fiduciary **MUST** show the full amount claimed on this line, unless it is a nonresident estate or trust. Amounts allocated to the beneficiaries should be included in line 8 of this form.

Line 6 – Total Adjusted Income

Add lines 4 and 5.

Line 7 – Federal Tax

Enter one-half of the federal income tax from line 23 of federal form 1041 or line 15 of 1041-QFT. Nonresident estates or trusts enter one-half of the federal tax liability multiplied by the percentage on Utah Schedule A, line 5.

Line 8 – Other Deductions

Write the **code and amount** of each allowable deduction from income on lines 8a through 8f. Enter the sum of all “other deductions” on line 8. An explanation of each deduction follows the list below.

Codes for lines 8a through 8f

70 State Tax Addback Allocated to Beneficiaries
71 Interest from U. S. Government Obligations
73 Utah Educational Savings Plan (UESP)
77 Native American Income
78 Railroad Retirement
81 Gains on Capital Transactions

(70) State Tax Addback Allocated to Beneficiaries

Include amount of state tax addback allocated to beneficiaries. See *“Additions and Subtractions for State Taxes, and Interest on U.S. Government Obligations Allocated to Beneficiaries,”* in the General Instructions. Keep all related documents with your records.

(71) Interest From U.S. Government Obligations

Interest earned on U. S. Government obligations issued by an agency or instrumentality of the United States is **exempt** from state income tax. U. S. Government obligations include:

- Treasury bills,
- Treasury notes, and
- E, EE, H, HH and I bonds

Income **NOT** exempt from Utah state income tax includes:

- Interest or dividends from Federal National Mortgage Association (FNMA) and Government National Mortgage Association (GNMA); and
- Interest on refunds from the IRS or any federal agency.

For further questions about taxability of interest income, you may use the following test developed by the U. S. Supreme Court in *Smith vs. Davis* 323 U.S. 111 (1944) to determine if the instrument qualifies as a U. S. Government obligation. The instrument must:

1. Be a written document,
2. Bear interest,

3. Contain a binding promise by the U. S. Government to pay a specific sum on a specific date, and
4. Have congressional authorization to pledge the full faith and credit of the United States in support of the promise to pay.

Only interest or dividend income from U. S. Government obligations included in your federal taxable income is exempt from state income tax. Before entering an amount, subtract any related expenses claimed as deductions on your federal return, such as interest expense on money borrowed to purchase bonds or securities, or ordinary and necessary expenses paid or incurred in connection with producing exempt income.

If the interest income is from a trust, attach a schedule to your return showing the calculation of income. Include the name, residency and federal identification number of the trust making the distribution.

See Pub 33, “Interest from U. S. Obligations” for more information.

(73) Utah Educational Savings Plan (UESP)

Each Utah taxpayer is entitled to an income tax deduction of up to \$1,470 per beneficiary for contributions to a UESP account during the tax year. Contributions are reported in box 1 of form TC-675H, “Statement of Contribution for Utah Educational Savings Plan.”

Keep form TC-675H with your records. If you have any questions about UESP, call 1-800-418-2551.

(77) Native American Income

An enrolled member of a Native American tribe in Utah who lives and works on the reservation on which he/she is an enrolled member is exempt from Utah income tax on the reservation income. An enrolled member of the Ute tribe who works on the Uintah and Ouray Reservation and lives on land removed from that reservation under *Hagen v. Utah* (510 U.S. 399 (1994)) is exempt from Utah income tax on income earned on the reservation.

Enter on line 8a through 8f, using code 77, the exempt income that is included in your federal taxable income.

(78) Railroad Retirement

Federal law does not allow states to tax railroad retirement income which has been reported on form RRB 1099 (Tier I) or RRB 1099-R (Tier II).

Railroad retirement pensions are deductible on the Utah return only to the extent they are taxable on the federal return. If you received pension payments under the Railroad Retirement Act and are required to report all or part of the amount received as income on the federal return, you may deduct that amount from Utah income.

**(81) Gains on Capital Transactions
(UCA §59-10-114(2)(m))**

A qualified taxpayer may deduct the long-term and short-term capital gain on a transaction if:

- a. The gain occurs on or after 01/01/03;
- b. At least 70% of the proceeds of the capital gain transaction are used to purchase qualifying stock in a Utah small business corporation within 12 months from when the gain was recognized; and
- c. The individual did not have an ownership interest in the Utah small business corporation that issued the qualifying stock.

For more information and a detailed definition of a Utah Small Business Corporation, visit the Tax Commission website, incometax.utah.gov or refer to UCA 59-10-103(1)(v).

Line 9 – Total Deductions

Add lines 7 and 8.

Line 10 – Utah Taxable Income

Subtract line 9 from line 6. This is your Utah taxable income. If less than zero, enter 0.

Line 11 – Utah Tax

Compute the tax for the amount on line 10 using the rate schedule on the back of the return. If you are filing a composite QFT return, follow the instructions on pages 13 and 14.

Line 12 – Credit For Tax Paid to Another State

This credit only applies to resident estates or trusts.

A Utah estate or trust must report all of its income regardless of where it was earned. If the estate or trust is also taxed by another state, the District of Columbia, or a possession of the United States on income reported on the Utah return, it is entitled to a credit against the Utah income tax.

To calculate the credit for taxes paid to other states, complete a separate Schedule B (on the back of the return) for each other state. Keep a copy of each state's fiduciary return for which a credit is claimed.

Line 13 – Nonrefundable Credits

Write the **code and amount** of each allowable nonrefundable credit on lines 13a through 13f. Enter the sum of all "nonrefundable credits" on line 13. An explanation of each nonrefundable credit follows the list below.

Codes for line 13a through 13f

02 Qualified Sheltered Workshop	09 Hiring Disabled
03 Renewable Energy Systems	10 Recycling Market
05 Clean Fuel Vehicle	11 Tutoring Disabled
06 Historic Preservation	12 Research Activities
07 Enterprise Zone	13 Research Mach./Equip.
08 Low Income Housing	

(02) Qualified Sheltered Workshop Cash Contribution Credit

There is no form for this credit. Keep all related documents with your records. The name of the qualified workshop must be written on the return to claim credit.

Cash contributions made within the tax year to a qualified nonprofit rehabilitation sheltered workshop facility operating in Utah for persons with disabilities are eligible for a credit against Utah income taxes. Check with the workshop to make sure they have a current Day Training Provider License or Day Support Provider Certificate issued by the Department of Human Services. The credit is equal to 50 percent of the total cash contributions, not to exceed \$200. Contributions claimed as a tax credit under this section may not also be claimed as a charitable deduction in determining net taxable income (UCA §59-10-108).

Contact the Contract Administrator, Division of Services for People with Disabilities, 120 N 200 W #411, SLC, UT 84103; telephone (801) 538-4200; www.hsdspd.utah.gov for more information.

(03) Renewable Energy Systems Tax Credit

Complete form TC-40E, "Renewable Energy Systems Tax Credit" with the Utah Energy Office stamp, verifying the credit has been approved. Do not send form TC-40E with your return. Keep the form and all related documents with your records.

To qualify for the Renewable Energy Systems Tax Credit, you must have installed or upgraded a renewable energy system, such as solar or wind generated power system, during the tax period. Energy savings devices, such as insulation, siding, thermal windows, and high efficiency furnaces do not qualify.

In order to determine if your system or system components and installation qualify for the tax credit, you must submit a written application, complete with signatures and photocopies of receipts, to the Utah Energy Office (UEO). Application forms can be obtained from the UEO, 1594 W North Temple, Suite 3610, Box 146480, SLC, UT 84114-6480, telephone (801) 538-5428 or through the Internet at www.energy.utah.gov. If your system meets the eligibility requirements, UEO will send you a TC-40E form with information on your eligible system and installation costs and the UEO stamp of approval.

(05) Clean Fuel Vehicle Credit

Complete form TC-40V, "Clean Fuel Vehicle Tax Credit," with the Division of Air Quality approval stamp, verifying the credit has been approved. Do not send form TC-40V with your return. Keep the form and all related documents with your records.

To qualify, you must have:

- Purchased a vehicle which is registered in Utah, for which this credit has not been taken, that was manufactured to use propane, natural gas, or electricity, or
- Purchased and installed equipment to convert a vehicle registered in Utah to use propane, natural gas, or electricity.

Note: A hybrid vehicle qualifies only if the same vehicle model is manufactured without the clean-fuel fueling system and the hybrid vehicle otherwise meets the requirements for a clean fuel vehicle.

Contact the Division of Air Quality, Department of Environmental Quality, 150 N 1950 W, SLC, UT 84116; telephone (801) 536-4000 to obtain form TC-40V, approval and for additional information.

(06) Historic Preservation Tax Credit

Complete form TC-40H, "Historic Preservation Tax Credit" with the State Historic Preservation Office certification, verifying the credit has been approved. Do not send form TC-40H with your return. Keep the form and all related documents with your records.

Only Utah residents are allowed this credit. The credit is for costs incurred in connection with qualified rehabilitation of any residential certified historic building. Unused credits may be carried forward five years as a credit against Utah tax due.

Contact the State Historic Preservation Office, 300 S. Rio Grande, SLC, UT 84101; telephone (801) 533-3563; history.utah.gov/historicpreservation/utahtaxcredit.html to obtain form TC-40H, certification, and additional information.

(07) Enterprise Zone Credit

An individual may not claim this credit or carry this credit forward into a year that the individual has claimed the recycling market development zone credit (code 10) or the targeted business income tax credit (line 22, code 40).

There is no form for this credit. Keep all related documents with your records.

The Enterprise Zone Credit is available for certain businesses that hire new full-time employees, rehabilitate buildings or meet certain other requirements in a designated zone.

Any credit amount exceeding the tax owed may be carried forward for a period that does not exceed the next three taxable years.

Indian tribes may apply for enterprise zone designation within an Indian reservation.

If enterprise zone credits are being taken on your ownership in a partnership or S corporation, you must

allocate the credits calculated above based on your respective percentage of ownership.

Contact the Department of Community and Economic Development, 324 S. State St., Suite 500, SLC, UT 84111, telephone (801) 538-8782; dced.utah.gov/incentives/enterprisezones.html or email jwilkinson@utah.gov to obtain additional information.

(08) Low Income Housing Credit

Individuals sharing in the credit must obtain form TC-40TCAC, "Utah Low-Income Housing Tax Credit Allocation Certification," and complete form TC-40LI, "Summary of Utah Low-Income Housing Tax Credit." If you are carrying this credit forward or backward, you must also complete form TC-40LIC, "Utah Low-Income Housing Tax Credit Carryback and/or Carryforward." Do not send these forms with your return. Keep the forms and all related documents with your records.

The building project owner must also complete and attach form TC-40LIS, "Credit Share Summary of Low-Income Housing Project" to the return.

This credit is an amount, determined by the Utah Housing Corporation, for the owners of a low-income housing project who have also received an allocation of the federal low-income housing tax credit. Unused credits may be carried back three years or carried forward five years.

When this credit is applicable, the project owner will provide form TC-40TCAC (issued by the Utah Housing Corporation) to the taxpayer.

Contact the Utah Housing Corporation, 554 S 300 E, SLC, UT 84111, telephone (801) 521-6950; www.utahhousingcorp.org for more information.

(09) Credit For Employers Who Hire Persons With Disabilities

Complete form TC-40HD, "Tax Credit for Employers Who Hire Persons with Disabilities," showing the required certification. Do not send form TC-40HD with your return. Keep the form and all related documents with your records.

The credit is for employers hiring individuals with disabilities who: (1) worked in this state for at least 6 months in a taxable year for that employer; and (2) are paid at least minimum wage by that employer.

Contact the Division of Services for People with Disabilities, 120 N 200 W, #411, SLC, UT 84103, telephone (801) 538-4200; www.hsdspd.utah.gov to obtain certification and additional information.

(10) Recycling Market Development Zones

NOTE: An individual may not claim this credit or carry this credit forward into a year that the individual has

claimed the enterprise zone credit (code 07) or the targeted business income tax credit (line 22, code 40).

Complete form TC-40R, "Recycling Market Development Zone Tax Credit," with the Department of Community and Economic Development certification verifying the credit has been approved. Do not send form TC-40R with your return. Keep the form and all related documents with your records.

The Utah legislature has authorized credit to individuals and businesses operating in a designated recycling market development zone as defined in UCA §9-2-1602.

Contact Lester Prall at the Department of Community and Economic Development, 324 S. State St, Suite 500, SLC, UT 84111, telephone (801) 538-8804; dced.utah.gov/incentives/recycling.html or email lprall@utah.gov to obtain form TC-40R, certification, and for additional information.

(11) Tutoring Credit For Disabled Dependents

There is no form for this credit. Keep all related documents with your records.

The credit is equal to 25 percent, up to \$100, of the costs paid by the taxpayer for tutoring each disabled dependent.

A disabled dependent is defined as a person who: (1) is disabled under UCA §53A-15-301; (2) attends a public or private kindergarten, elementary or secondary school; and (3) is eligible to receive disability program monies under UCA §53A-17a-111.

Tutoring, for purposes of this credit, means educational services approved by an individual education plan team and provided to a disabled dependent that supplements classroom instruction the disabled dependent receives at a public or private kindergarten, elementary or secondary school in the state.

Tutoring does not include:

1. Purchases of instructional books and materials; and
2. Payments for attendance at extracurricular activities, including sporting events, musical or dramatic events, speech activities, or driver education.

Contact the Utah State Board of Education at (801) 538-7700 for additional information.

(12) Credit for Increasing Research Activities

There is no form for this credit. Keep all related documents with your records.

The credit is for expenses incurred for increasing qualified research activities in Utah. A qualifying taxpayer may claim the credit in the taxable year immediately following the taxable year for which the taxpayer qualifies for the credit.

For detailed information regarding this credit, including definition of terms and procedures for claiming the credit, refer to UCA §59-10-131.

(13) Credit for Machinery and Equipment Used to Conduct Research

There is no form for this credit. Keep all related documents with your records.

The credit is for machinery, equipment or both used primarily for conducting qualified research or basic research in Utah for a time period of not less than 12 consecutive months. A qualifying taxpayer may claim the credit in the taxable year immediately following the taxable year for which the taxpayer qualifies for the credit.

For detailed information regarding this credit, including definition of terms and procedures for claiming the credit, refer to UCA §59-10-132.

Line 14 – Total Tax Paid To Another State and Nonrefundable Credits

Add lines 12 and 13.

Line 15 – Subtract line 14 from line 11

If line 14 is greater than or equal to line 11, enter zero.

Line 16 – Amended Returns Only (Previous Refunds)

Use this line only if you are filing an amended return. Enter the amount of all refunds, credits or offsets of state income tax received for the tax year being amended. Exclude refund interest from this amount.

Line 17 – Utah Use Tax

Use tax is required on all taxable items purchased for storage, use or consumption in Utah during the filing year, if sales and use tax was not paid at the time of purchase.

Purchases include amounts paid or charged for purchases made on the Internet or through catalogs. Credit is allowed for sales or use tax paid to another state, but not to a foreign country. If the tax rate in the other state is lower than Utah's tax rate, the consumer is required to pay the difference. If the tax rate in the other state is greater than Utah's tax rate, no sales or use tax credit or refund applies.

Enter use tax of \$400 or less. If the amount exceeds \$400, the purchaser is required to obtain a sales and use tax license and to pay the use tax on a sales and use tax return.

Sales and use tax rates vary throughout Utah. Use the following chart [on the next page](#) to find the tax rate for the Utah location where the merchandise was delivered, stored, used or consumed. If the city is not listed, use the county tax rate.

Complete the worksheet to determine the amount of use tax due. Credit for sales tax paid to another state cannot exceed the Utah sales tax that would otherwise be due on those items. If sales taxes were paid to more than one state, complete a worksheet for each state. Enter the sum of the use tax from each worksheet on line 17.

WORKSHEET FOR COMPUTING UTAH USE TAX
(Retain this worksheet for your records.)

1. Total amount of purchases subject to use tax \$ _____
2. Use tax rate (decimal from chart) x _____
3. Use tax (multiply line 1 by line 2) \$ _____
4. Credit for sales tax paid to another state \$ _____
5. Use tax due (subtract line 4 from line 3)
Enter ZERO if less than ZERO \$ _____

Use Tax Rate Chart (Effective Dec. 31, 2004)

.0600 Beaver County	.0810 Alta
.0700 Beaver City	.0600 San Juan County
.0600 Box Elder County	.0650 Monticello
.0625 Brigham City, Perry, Willard	.0600 Sanpete County
.0700 Snowville	.0625 Ephraim, Gunnison
.0610 Cache County	.0600 Sevier County
.0635 Cache Valley Transit, Hyde Park, Hyrum, Logan, Millville, Nibley, N.Logan, Providence, Richmond, River Heights, Smithfield	.0625 Richfield, Salina
.0600 Carbon County	.0610 Summit County
.0625 Price, Wellington	.0735 Park City
.0600 Daggett County	.0635 Snyderville Basin Transit
.0650 Davis County	.0600 Tooele County
.0600 Duchesne County	.0625 Erda, Grantsville, Lakepoint, Lincoln, Stansbury Park, Tooele City
.0625 Roosevelt	.0650 Uintah County
.0575 Emery County	.0675 Vernal
.0750 Green River	.0600 Utah County
.0700 Garfield County	.0625 Alpine, American Fork, Cedar Hills, Highland, Lehi, Linton, Mapleton, Orem, Payson, Pleasant Grove, Provo, Provo Canyon, Salem, Spanish Fork, Springville
.0800 Boulder, Panguitch, Tropic	.0600 Wasatch County
.0600 Grand County	.0625 Heber
.0775 Moab	.0725 Park City East
.0600 Iron County	.0600 Washington County
.0775 Brian Head	.0625 Hurricane, Ivins, La Verkin, St. George, Santa Clara, Washington City
.0600 Juab County	.0750 Springdale
.0625 Nephi	.0600 Wayne County
.0675 Kane County	.0650 Weber County
.0775 Kanab, Orderville	
.0575 Millard County	
.0600 Morgan County	
.0600 Piute County	
.0600 Rich County	
.0700 Garden City	
.0660 Salt Lake County	

Line 18 – Total Tax, Additions and Use Tax
Add lines 15, 16 and 17.

Line 19 – Utah Tax Withheld
Enter the amount of Utah tax withheld shown on forms W-2, 1099R, 1099MISC, etc. Attach these forms to the return.

Line 20 – Credit for Utah Income Taxes Prepaid

Prepayments include the amount(s) paid with form TC-548, "Prepayment of Fiduciary Tax."

Line 21 – Amended Returns Only (Previous Payments)

Use this line only if you are filing an amended return. Enter the amount of tax paid with the original return and/or subsequent payments of the tax prior to filing this amended return.

Line 22 – Refundable Credits

Write the **code and amount** of each allowable refundable credit on lines 22a through 22f. Enter the sum of all "refundable credits" on line 22. An explanation of each refundable credit follows the list below.

Codes for lines 22a through 22f

- 40 Targeted Business Tax Credit
- 41 Special Needs Adoption Credit
- 43 Nonresident Shareholder's Withholding Tax Credit
- 46 Mineral Production Withholding Tax Credit
- 47 Agricultural Off-highway Gas/Undyed Diesel Tax Credit

(40) Targeted Business Tax Credit

NOTE: If an individual claims this credit, the individual may not claim or carry forward an enterprise zone tax credit (line 13, code 07) or recycling market development zone tax credit (line 13, code 10).

Obtain a certified copy of form TC-40TB, "Targeted Business Income Tax Credit," from the Department of Community and Economic Development. Do not send TC-40TB with your return. Keep this form and all related documents with your records.

A refundable credit is available to businesses providing a community investment project as defined in UCA §9-2-1801, §9-2-1802 and §9-2-1803.

Contact the Department of Community and Economic Development, 324 S State St., Suite 500, SLC, UT 84111, telephone (801) 538-8781; www.dced.utah.gov or email emeyer@utah.gov to obtain form TC-40TB, certification or for additional information.

(41) Special Needs Adoptions Credit

There is no form for this credit. Keep all related documents with your records.

A taxpayer who adopts a child with special needs may claim a refundable credit of \$1,000 for each child adopted. This credit may only be claimed in the tax year the court issues the order granting the adoption and may not be carried forward or back.

To claim this credit, permanent custody of the child must have been awarded to the Utah Division of Child and Family Services, and the child must meet one of the following conditions:

- Be five years of age or older
- Be under the age of 18 with physical, emotional, or mental disability; or
- Be a member of a sibling group (two or more persons) placed together for adoption

(43) Nonresident Shareholder's Withholding Tax Credit (for non and part-year residents only)

Keep the federal Schedule K-1 issued by the corporation and all other related documents with your records. Do not attach to your Utah return.

If you are a Utah nonresident shareholder of an S corporation, you are entitled to a credit for any Utah income tax withheld and paid by the S corporation on your behalf.

Enter the amount of the withholding credit claimed. Also, enter the federal identification number of the S corporation in the space provided. If you have Utah withholding credits from more than one S corporation, enter the federal identification number of the S corporation for which you are claiming the largest amount of withholding. Also check the box on line 3 of form TC-41.

(46) Mineral Production Withholding Tax Credit

Enter the total of the mineral production tax withheld as shown on forms TC-675R or federal schedule K-1(s) for 2004.

Attach copies of form TC-675R or federal K-1 to the return to receive proper credit. (Attach these forms with other W-2 and 1099 forms.)

(47) Agricultural Off-Highway Gas/Undyed Diesel Tax Credit

There is no form for this credit. Keep all related documents with your records.

The credit is 24.5 cents per gallon only for motor fuel and undyed diesel fuel purchased in Utah to operate stationary farm engines and self-propelled farm machinery used solely for commercial nonhighway agricultural use that was taxed at the time of purchase.

Activities that DO NOT qualify for this credit include, but are not limited to, the following: Golf courses, horse racing, boat operations, highway seeding, vehicles registered for highway use, hobbies, farming for personal use, etc.

Calculate credit:

Gallons _____ x .245 = Credit _____

Line 23 – Total Withholdings and Credits

Add lines 19 through 22.

Line 24 – Tax Due

If the amount on line 18 is greater than the amount on line 23, subtract line 23 from line 18. This is the amount you owe. Make check or money order payable to the Utah State Tax Commission.

PAYMENT OPTIONS

You may pay tax online with your credit card or with an electronic check (ACH debit) from your checking account. You may pay in full or make partial payments throughout the year. Each online payment is subject to a service fee.

To pay online, access PaymentExpress (paymentexpress.utah.gov) and follow the step-by-step instructions.

You may also mail in your check or money order payable to the Utah State Tax Commission, with your return. Be sure to write your social security number or EIN, daytime telephone number, and "2004 TC-41" on your check. DO NOT STAPLE check to return. DO NOT MAIL CASH. The Tax Commission assumes no liability for loss of cash placed in mail. Mail your payment and return to Utah State Tax Commission, 210 N 1950 W, Salt Lake City, UT 84134-0250.

ALLOW AT LEAST 90 DAYS FOR YOUR RETURN TO BE PROCESSED.

PENALTY AND INTEREST, if applicable, will be billed. Penalty and interest charges are explained in the "Penalties" and "Interest" instructions on page 3.

PAYMENT AGREEMENT REQUEST: If you owe tax and are unable to pay all or a portion of the amount owed, you may request a payment agreement by completing form TC-804B, "Payment Agreement Request." The form can be obtained at tax.utah.gov. If approved, you will receive a letter confirming the acceptance of your request.

A payment agreement does not stop the accrual of penalty and interest. If you do not pay in full by the return due date, whether or not you request a payment agreement, any balance due will be subject to penalty and interest and a lien may be filed to secure the debt.

If you do not submit a payment agreement request form, a billing notice for the full amount due, including penalty and interest, will be mailed to you. Upon receiving this notice, you must pay the total amount due, unless you request a payment agreement by completing and mailing form TC-804B or calling (801) 297-7703 or 1-800-662-4335 ext. 7703.

Payments may be submitted prior to approval of the payment agreement or billing notice, per the instructions above.

Line 25 – Refund

If the amount on line 23 is greater than the amount on line 18, subtract line 18 from line 23. This is your refund. The refund will be issued as soon as reasonably possible. However, allow at least 90 days for processing.

Completing The Return

Signature

The return must be signed on page 2 by the fiduciary or an officer representing the estate or trust.

Paid Preparer Authorization

If the fiduciary wants to allow the Tax Commission to discuss their 2004 return with the paid preparer who signed it, check the box on the right side of the signature area of the return. This authorization applies only to the individual whose signature appears in the "Paid Preparer Section" of the return. It does not apply to the firm, if any, shown in that section.

If the box is checked, the fiduciary is authorizing the Tax Commission to call the paid preparer to answer any questions that may arise during the processing of the return. The paid preparer is also authorized to:

- Give the Tax Commission any information that is missing from the return,
- Call the Tax Commission for information about the processing of the return or the status of any refund or payment(s), and
- Respond to certain Tax Commission notices about math errors, offsets, and return preparation.

The fiduciary is not authorizing the preparer to receive any refund check, bind the entity to anything (including any additional tax liability), or otherwise represent the entity before the Tax Commission. If the fiduciary wants to expand the preparer's authorization, a power of attorney must be completed and submitted to the Tax Commission.

The authorization cannot be revoked. However, the authorization will automatically end no later than the due date (without regard to extensions) for filing the entity's 2005 tax return.

Paid Preparer

The paid preparer must enter his or her name, address and social security number or PTIN in the section below the signature on the return.

Preparer Penalties

The person who prepares, presents, procures, advises, aids, assists or counsels another on a return, affidavit, claim or similar document administered by the Tax Commission, and who knows or has reason to believe it may understate a tax, fee or charge is subject to both a civil penalty (\$500 per document) and criminal penalties (second degree felony with a fine between \$1,500 to \$25,000). See Utah Code Sections 59-1-401(9) and (10) for specific details.

Instructions for Schedule A – Nonresident Estate or Trust

A nonresident estate or trust must include the portion of its federal taxable income that is derived from Utah sources as defined below.

Lines 2 and 3 – Ordinary Income and Capital Gain or Loss Derived from Utah Sources

Include those items that are includable for federal fiduciary income tax purposes that are attributable to, or resulting from, ownership in Utah of any interest in real or tangible personal property (including real property or property rights from which “gross income from mining,” as defined by the IRC Section 613(c), is derived) or the carrying on of a trade, business, profession or occupation in this state.

Use the following guidelines to determine ordinary income or capital gain or loss derived from Utah sources:

1. Income from intangible personal property, including annuities, dividends, interest and gains from the disposition of intangible personal property, shall constitute income derived from Utah sources only to the extent that the income is derived from property employed in a trade, business, profession or occupation carried on in Utah.
2. Deductions with respect to capital losses, net long-term capital gains, and net operating losses shall be based solely on income, gain, loss and deduction connected with Utah sources. However, salaries, wages, commissions and compensation for personal services rendered outside the state of Utah shall not be deemed as derived from Utah sources.
3. A nonresident beneficiary's distributive share of ordinary income, gain, loss and deductions derived from or connected with Utah sources shall be determined under UCA §59-10-118.
4. A nonresident estate or trust, other than a dealer holding property primarily for sale to customers in the ordinary course of a trade or business, shall not be deemed to carry on a trade, business, profession or occupation in the state of Utah solely by reason of the purchase or sale of property for its own account.
5. If a trade, business, profession or occupation is carried on partly within and partly outside the state of Utah, items of income, gain, loss and deductions derived from or connected with Utah sources shall be determined in accordance with the provisions of UCA §59-10-118.

Enter the amount of ordinary estate or trust income derived from Utah sources on Schedule A, line 2, and the amount of Utah capital gain or loss on Schedule A, line 3.

Line 6 – Deductions and Expenses Directly Allocable to Utah Income

Amounts directly allocable to Utah income include:

- Depreciation and depletion on Utah properties;
- Interest and taxes pertaining to Utah property;
- Deduction for distributions of Utah income to beneficiaries;
- Capital gain deductions or expenses on Utah capital gains or losses; and
- Estate tax deductions pertaining to Utah income.

Line 7 – Deductions and Expenses Not Directly Allocable to any Specific Income

Amounts not directly allocable to Utah income include:

- Charitable deductions;
- Fiduciary fees;
- Attorney and accountant fees; and
- The federal exemption.

Qualified Funeral Trust Information and Instructions

Who Must File

The trustee of a trust that has elected to be taxed as a qualified funeral trust (QFT) files federal Form 1041-QFT to report the income, deductions, gains, losses, etc., and income tax liability of the QFT. The trustee can use the state Form TC-41 to file for a single QFT or for multiple QFTs having the same trustee following the instructions under "Composite Return" on this page.

Pre-need funeral trusts that do not qualify as QFTs should see the instructions for Utah Form TC-41, Utah Fiduciary Income Tax Return, for their filing requirements.

Qualified Funeral Trust

A QFT is a domestic trust that meets all of the following requirements:

- It arose as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services.
- The sole purpose of the trust is to hold, invest and reinvest funds in the trust and to use those funds solely to pay for funeral or burial services or property to provide such services for the benefit of the beneficiaries of the trust.
- The only beneficiaries are individuals for whom such services or property are to be provided at their death under the contracts described above.
- The aggregate contributions to the trust on behalf of any single beneficiary do not exceed \$7,000 and are made by or for the benefit of such beneficiaries.
- The trustee makes or previously had made the election to treat the trust as a QFT.
- If the QFT election had not been made, the trust would have been treated as owned by the purchasers of the contracts under the grantor trust provisions of the Internal Revenue Code. However, a trust that is not treated as owned by the purchaser solely because of the death of an individual shall be treated as meeting this requirement during the 60-day period beginning on the date of that individual's death.

If a QFT has multiple beneficiaries, each beneficiary's separate interest under a contract is treated as a separate QFT for the purpose of figuring the tax and filing this return. Each beneficiary's share of the trust's income is determined in accordance with the beneficiary's interest in the trust.

Whenever these instructions refer to a trust or QFT, it includes such separate interests that are treated as separate QFTs.

Contribution Limit

To determine whether a trust meets the \$7,000 contribution limit, you must determine not only whether there have been contributions in excess of \$7,000, but also whether, over the anticipated life of the trust, it is expected to receive contributions in the future that exceed the contribution limit. Projected contributions are based on existing contributions, the applicable state law trust contribution requirements, and any expected contributions in excess of the state law requirements. You must make this determination at the inception of the trust and at any time the amount of the projected contributions changes. A trust that is determined at its inception not to exceed the contribution limit, but that exceeds the limit in a future year due to a change in projected contributions, will be deemed to exceed the contribution limit at the time of the change in projected contributions.

Making the Election

The trustee makes the election to treat a trust as a QFT by filing federal Form 1041-QFT by the due date (including extensions).

Composite Return

A trustee may file a single, composite Utah Form TC-41 for all QFTs of which he or she is the trustee, including QFTs that had a short tax year. Attach a schedule to the composite Utah Form TC-41 that includes the following information for each QFT (or separate interest treated as a separate QFT):

- The name of the owner or the beneficiary. If you list the name of the owner and that trust has more than one beneficiary, you must separate the trust into shares held by the separate beneficiaries. The same information used on the federal Form 1041-QFT can be used in computing the state tax.
- The type and gross amount of each type of income earned by the QFT for the tax year. For capital gains, identify separately the amount of net short-term capital gain, net long-term capital gain, 28% rate gain, and unrecaptured section 1250 gain;
- The type and amount of each deduction and credit allocable to the QFT;
- The tax and payments made for each QFT; and
- If the QFT was terminated during the year, give the date of the termination.

Specific Instructions

The line-by-line instructions should be followed with the exception of the computation of tax. Attach to the TC-41, schedules that include the number of QFTs.

Composite Return. If this is a composite return, the same information and schedules used on the federal Form 1041-QFT can be used in computing the state tax. Figure the taxable income separately for each QFT using each QFT's share of the amounts on the lines referred to in "Composite Return" on page 13.

Tax Computation. A separate schedule should be used to calculate the tax for each QFT using the graduated tax rates for each QFT. Figure the tax for each QFT using the Tax Rate Schedule below. Enter the sum of the tax for all QFTs on line 11.

2004 State Tax Rate Schedule

If the state taxable income is:

The Tax is:

Less than or equal to \$863	2.3% of state taxable income
\$864 not over \$1,726	\$20, plus 3.3% of excess over \$863
\$1,727 not over \$2,588	\$48, plus 4.2% of excess over \$1,726
\$2,589 not over \$3,450	\$85, plus 5.2% of excess over \$2,588
\$3,451 not over \$4,313	\$129, plus 6% of excess over \$3,450
Over \$4,313	\$181, plus 7% of excess over \$4,313