

Utah!

Where ideas connect

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

2007

General Instructions

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) must be attached to the Utah return.

When to File

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

1. By April 15, 2008, if you file on a 2007 calendar year basis (tax year ends December 31, 2007); 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 2007 must be paid by the due date. If your return is not filed on time or all income tax due is not paid by the due date you may be subject to penalties and interest. (See Penalties and Interest instructions on page 2.)

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 next paragraph) are not met on or before the original due date penalties will be assessed. (See Penalties and Interest instructions on page 2.) All extension returns must be filed by October 15, 2008.

Prepayment Requirements

All prepayments are due on or before the original due date.

The required prepayment must equal:

- Ninety percent (90%) of the tax due for 2007 or;
- One hundred percent (100%) of the amount of the 2006 Utah tax liability as indicated on line 11 of the 2006 Utah Fiduciary Income Tax Return.

A prepayment may be in the form of withholding (W-2, TC-675R, etc.), tax credit, and/or payment made on or before the tax due date using form TC-548, Fiduciary Income Tax Prepayment Coupon. Interest will be assessed on unpaid tax from the filing due date until the tax is paid in full. Penalties may also be assessed.

Tax Period and Accounting Method

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 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 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 center of the return, if this is a final return.

Where to File

Send the completed return and any payment (with TC-549 coupon) to:

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

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 all 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 R865-91-2 and R884-24P-52. Visit our website at tax.utah.gov/research/ruleseffective.html.

Resident Estate or Trust Defined

Resident estate or resident trust means:

1. An estate of a decedent who, at his death, was domiciled in Utah;

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 Utah; or
3. A trust administered in Utah. A trust shall be considered to be administered in Utah if:
 - a. The place of business where the fiduciary transacts a major portion of its administration of the trust is in Utah; or
 - b. The usual place of business of the fiduciary is in Utah.

Nonresident Estate or 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.

Recordkeeping and Documentation

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

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.**

PENALTIES

Utah law (UC §59-1-401) provides penalties for failure to file tax returns by the due date, failure to pay tax due on time, failure to make sufficient prepayment on extension returns, and failure to file information returns or supporting schedules. Details of these penalties, along with a list of additional penalties that may be imposed, can be found in Pub 58, available at tax.utah.gov/forms. You can calculate late filing, late payment, and extension penalties by using the online Penalty and Interest Calculator at tax.utah.gov/picalc.

INTEREST (In addition to any penalties due)

Interest will be assessed on any underpayment 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 2008 calendar year is **7 percent**. Use the online Penalty and Interest Calculator at tax.utah.gov/picalc or follow the instructions in Pub 58, available at tax.utah.gov/forms to assist you.

Amended Returns

To amend a previously filed return, use the tax form and instructions for the year you are amending. You can obtain prior year forms and instructions at tax.utah.gov/forms/old.html.

Amend your return promptly if:

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

Generally, to qualify for a refund or a credit, an amended return must be filed within three years following the date the original return was due. 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 2007 Utah Fiduciary Tax Return

- A. Enter on page 1 of the Utah return in the box titled "For Amended Return - Enter Code" a code number that best corresponds to your **Reason For Amending**. See codes below.

Reason-for-Amending Codes (enter 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 Utah 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 a fiduciary 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 the previous refund on line 14 of the 2007 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 19 of the 2007 amended return.
- D. Do not submit a copy of your original return with the amended return.

Fiduciary Adjustments: Addition for Interest on U.S. Government Obligations and Subtraction for State Taxes Allocated to Beneficiaries

The estate or trust must include the full amount of the interest on U. S. government obligations and state tax addback allocated to beneficiaries, as explained below. The adjustment for interest on U. S. government obligations is entered on Schedule S, Part 1, code 50 and the adjustment for the state tax addback allocated to beneficiaries is entered on Schedule S, Part 2, code 70.

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 interest on U. S. government obligations and the state tax addback shall be allocated 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 U. S. government obligations and the state tax addback shall be allocated in proportion to its share of the estate or trust income for that year, that is, under state law or the governing instrument, required to be distributed currently, plus any other amounts of that income distributed in that taxable 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 derived from Utah sources (see instructions for Schedule A).

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.

Federal Form 8886

If you filed federal form 8886, Reportable Transaction Disclosure Statement, with the Internal Revenue Service, enter an "X" in the box at the top of your TC-41, where indicated.

Line-By-Line Instructions

Heading

Print or type the information requested in the spaces provided. Enter the full name of the estate or trust.

Enter either the social security number (SSN) of the estate or trust, or the federal employer identification number (EIN). Also, enter the EIN or SSN of the fiduciary.

Line 1 – Type of Return

Enter the appropriate code 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 federal Form 1041. For pooled income funds, enter H for a charitable trust.

Electing Small Business Trust (ESBT) returns must report federal taxable income on line 4, and the separate small business trust portion of the taxable income on Schedule S, Part 1, code 58.

Federal Form 1041-QFT filers will find the general instructions on how to file their Utah return on pages 15 and 16.

Bankruptcy Estate filers will find the specific instructions on pages 14 and 15 on how to compute their Utah tax on the Schedule B.

Line 2 – Status of Estate or Trust

Enter the code “R” for a resident estate or trust, or “N” for nonresident 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, enter an “X” in the box. If all beneficiaries are residents of Utah, leave the box blank.

Resident defined

A trust beneficiary is a Utah resident if:

1. Domiciled in Utah for the entire year, even if 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, enter an “X” in the box if any 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

Resident. If you entered “R” (for resident) in the box on line 2, enter the amount of federal taxable income from form 1041, line 22 or form 1041-QFT, line 12.

Nonresident. If you entered “N” (for nonresident) in the box on line 2, enter the amount from Utah form TC-41, Schedule A, line 10. Instructions for Schedule A are on page 13.

Bankruptcy Estates. Trustees of an individual bankruptcy estate (chapter 7 or chapter 11) must complete Schedule B, Bankruptcy Estate Tax Calculation, to determine the taxable income and tax liability of the estate. Follow these instructions for entries on Schedule B:

- Leave lines 4 through 9 blank
- Line 10, Utah taxable income – enter the amount from line 16 of Schedule B
- Line 11, Utah income tax – enter the amount from line 19 or line 23 of Schedule B, whichever applicable
- Lines 12 through 24 – complete according to the regular fiduciary instructions.

Line 5 - Additions to Income

If you have any of the following additions to income, complete Schedule S, Part 1 on the second page of the Utah fiduciary return. On Schedule S, Part 1, write the **code and amount** of each addition to income. Carry the sum of all additions to income to line 5. An explanation of each addition to income is listed below.

Codes for Schedule S, Part 1

- | | |
|----|--|
| 50 | Fiduciary Adjustment for Interest on U.S. Oblig. Alloc. to Bene. |
| 51 | Lump Sum Distribution |
| 54 | Utah Educational Savings Plan Unqualified Withdrawal (UESP) |
| 57 | Municipal Bond Interest |
| 58 | ESBT S Corporation Income |
| 59 | State Income Taxes Deducted on Federal Return |

(50) Fiduciary Adjustment for Interest on U.S. Gov. Obligations Allocated to Beneficiaries (UC §59-10-210)

Include all interest on U.S. government obligations allocated to beneficiaries. See Fiduciary Adjustments: Addition for Interest on U.S. Government Obligations and Subtraction for State Taxes Allocated to Beneficiaries, in the General Instructions. Keep all related documents with your records.

**(51) Lump Sum Distribution
(UC §59-10-202(1)(b))**

If you did not file form 4972 with your federal return, this addition to income does not apply.

If you received a lump sum distribution and filed federal form 4972, enter the total of amounts shown on Part II, line 6 and on Part III, line 10 of federal form 4972. Keep a copy of form 4972 and any 1099-R forms showing the distribution with your records.

Shared Distributions: If you shared a lump sum distribution, first multiply the amount on line 10 of form 4972 by the distribution percentage shown in box 9a on your form 1099-R. Then add the amount shown on Part II, line 6 on form 4972.

(54) Utah Educational Savings Plan Unqualified Withdrawal (UESP) (UC §59-10-202(1)(e))

If an amount is withdrawn from a Utah Educational Savings Plan by the fiduciary but not expended for qualified higher education costs, and the amount withdrawn was previously deducted on the fiduciary's Utah return, the withdrawn amount must be added-back to income. A UESP account holder should receive form TC-675H, Statement of Contributions and Disbursements for the Utah Educational Savings Plan, from UESP. Keep this form with your records. If you have any questions about UESP, call (801) 321-7188 or 1-800-418-2551 or www.uesp.org.

2006 Catch-up Provision. 2007 legislation provides for a catch-up provision if an unqualified withdrawal was made from a Utah Educational Savings Plan in 2006 and the amount withdrawn was previously deducted on the fiduciary's Utah return. If the 2006 unqualified withdrawal was not reported on the 2006 Utah fiduciary return, that withdrawal must be reported on the 2007 Utah fiduciary return.

**(57) Municipal Bond Interest
(UC §59-10-202(1)(c))**

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 income tax if acquired on or 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 an income tax on bonds issued by Utah. For more information, visit incometax.utah.gov/topics_municipalbonds.php.

**(58) ESBT S Corporation Income
(UC §59-10-202(1)(d))**

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 (UC §59-10-202(1)(a))

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** add back the full amount claimed, 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 Deduction

Enter one-half of the federal income tax from line 4 on Schedule G 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

If you have any of the following other deductions from income, complete Schedule S, Part 2 on the second page of the Utah fiduciary return. On Schedule S, Part 2, write the **code and amount** of each other deduction from income. Carry the sum of all other deductions to line 8 of your return. An explanation of each other deduction is listed below.

Codes for Schedule S, Part 2

70	Fiduciary Adjustment for State Tax Addback Alloc. to Bene.
71	Interest from U. S. Government Obligations
73	Qualified Investment in the Utah Educational Savings Plan (UESP)
77	Native American Income
78	Railroad Retirement Income
80	State Tax Refund Included in Federal Income
81	Gains on Capital Transactions
84	Nontaxable Income from Irrevocable Resident Trust

**(70) Fiduciary Adjustment for State Tax Addback Allocated to Beneficiaries
(UC §59-10-210)**

Include the amount of state tax addback allocated to beneficiaries. See Fiduciary Adjustments: Addition for Interest on U.S. Government Obligations and Subtraction for State Taxes Allocated to Beneficiaries, in the General Instructions. Keep all related documents with your records.

**(71) Interest from U.S. Government Obligations
(UC §59-10-202(2)(a))**

See Pub 33 for detailed instructions and examples of 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 deductible on your Utah return. 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.

(73) Qualified Investment in the Utah Educational Savings Plan (UESP) (UC §59-10-202(2)(j))

A qualified investment in a Utah Educational Savings Plan is deducted as an other deduction on Schedule S. To qualify, the investment must be made during the taxable year and not have been deducted on the taxpayer's federal return. The deduction is limited to the lesser of the actual investment made during the tax year or \$1,620 per individual beneficiary (but see next paragraph). A UESP account holder should receive form TC-675H, Statement of Contributions and Disbursements for the Utah Educational Savings Plan, from UESP. Deduct on Schedule S, Part 2 the amount on line 1A of form TC-675H. Keep this form with your records. If you have any questions about UESP, call (801) 321-7188 or 1-800-418-2551 or www.uesp.org.

2006 Catch-up Provision. 2007 legislation provides for a catch-up provision for investments made during 2006 to a Utah Educational Saving Plan. The same qualifications as explained in the paragraph above apply, except the deduction amount for 2006 is limited to \$1,560 per beneficiary. If you have both 2006 and

2007 investments, your deduction limitation is \$1,560 for 2006 plus \$1,620 for 2007, or a maximum of \$3,180 per beneficiary on the 2007 fiduciary return.

(77) Native American Income (UC §59-10-202(2)(d) and (i))

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 Schedule S, Part 2, using code 77, the exempt income included in your federal taxable income. Enter your enrollment/census number and a Native/Tribe Code from the list below in the box designating to which nation/tribe you belong.

Nation/Tribe Code

- 1 Confederated Tribes of the Goshute Reservation
- 2 Navajo Nation Reservation
- 3 Paiute Indian Tribe of Utah Reservation
- 4 Skull Valley Band of Goshute Indians
- 5 Ute Indian Tribe
- 6 Other tribe

(78) Railroad Retirement Income (UC §59-10-202(2)(h))

Federal law does not allow states to tax railroad retirement or disability income received from the Railroad Retirement Board on form RRB-1099. States are also prohibited from taxing unemployment and sickness benefits.

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, disability income or unemployment 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.

(80) State Tax Refund Included in Federal Income (UC §59-10-202(2)(g))

Enter the amount of any state tax refund that has been included on the federal fiduciary form 1041 for the same year.

(81) Gains on Capital Transactions (UC §59-10-202(2)(e))

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

- a. The gain occurs on or after January 1, 2003;
- 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 incometax.utah.gov/deductions_capitalgains.php or refer to UC 59-10-103(1)(c).

(84) Nontaxable Income from Irrevocable Resident Trust (UC §59-10-202(2)(c))

Income of an irrevocable resident trust is subtracted from federal taxable income if:

1. The trust first became a resident trust on or after January 1, 2004;
2. No assets of the trust were held at any time after January 1, 2003 in another resident irrevocable trust created by the same settlor or the spouse of the settlor;
3. The trustee of the trust is a trust company as defined in subsection 7-5-1(1)(d); and
4. The amount subtracted is reduced to the extent the settlor or any other person is treated as an owner of any portion of the trust, and by any interest on indebtedness incurred or continued to purchase or carry the assets generating the income, and by any expense incurred in the production of income to the extent those expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

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 page 17. If you are filing a composite QFT return, follow the instructions on pages 16 and 17.

Line 12 – Nonrefundable Credits

If you claim any of the following nonrefundable credits, complete Schedule S, Part 3 on the second page of the Utah fiduciary return. On Schedule S, Part 3, write the **code and amount** of each nonrefundable credit. Carry the sum of all nonrefundable credits to line 12. An explanation of each nonrefundable credit is listed below.

Codes for Schedule S, Part 3

02 Qual. Sheltered Workshop	10 Recycling Market
03 Carryover of Prior Energy Credit	12 Research Activities
05 Clean Fuel Vehicle	13 Research Mach./Equip.
06 Historic Preservation	17 Taxes Paid to Another State
07 Enterprise Zone	21 Residential Energy System
08 Low-Income Housing	

(02) Qualified Sheltered Workshop Cash Contribution Credit (UC §59-10-1004)

There is no form for this credit. Keep all related documents with your records. The name of the qualified workshop must be written on Schedule S, Part 3 to claim the 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, and may not 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.

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) Carryover of Prior Credit for Renewable Energy Systems (UC §59-10-1014)

If you claimed a renewable energy systems tax credit on your 2003, 2004, 2005, or 2006 Utah fiduciary return, and the tax credit was in excess of your tax liability for the year claimed, the excess credit may be carried over to the four succeeding years. If you have any excess credit that was not used against a subsequent tax year liability, and are carrying over that excess credit to 2007, enter the unused carryover on Schedule S, Part 3, using code 03.

(05) Clean Fuel Vehicle Credit (UC §59-10-1009)

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: For tax years beginning after 2005, the clean fuel vehicle credit is no longer available for electric-hybrid vehicles.

Contact the Division of Air Quality, 150 N 1950 W, SLC, UT 84116, telephone (801) 536-4029 to obtain form TC-40V, approval, and for additional information.

**(06) Historic Preservation Tax Credit
(UC §59-10-1006)**

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 certified historic residential building. Unused credits may be carried forward five years as a credit against Utah tax due.

Contact the State Historic Preservation Office, 300 Rio Grande, SLC, UT 84101, telephone (801) 533-3562, or history.utah.gov/historic_preservation to obtain form TC-40H, certification, and additional information.

**(07) Enterprise Zone Credit
(UC §63-38f-413)**

NOTE: An individual may not claim this credit or carry this credit forward into a year the individual has claimed the recycling market development zone credit (nonrefundable credit, code 10) or the targeted business income tax credit (refundable credit, 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. Indian tribes may apply for enterprise zone designation within an Indian reservation.

Any credit amount exceeding the tax owed may be carried forward for three consecutive years.

If enterprise zone credits are being taken on your ownership in a partnership or S corporation, you must allocate the credits calculated based on your respective percentage of ownership.

Contact the Governor's Office of Economic Development, 324 S State St, Suite 500, SLC, UT 84111, telephone (801) 538-8804; goed.utah.gov/incentives/enterprise_zones or email lprall@utah.gov to obtain additional information.

**(08) Low-Income Housing Credit
(UC §59-10-1010)**

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. When this credit is applicable, the project owner will provide form TC-40TCAC (issued by the Utah Housing Corporation) to the taxpayer. Unused credits may be carried back three years or carried forward five years.

For more information go to the Utah Housing Corporation website at www.utahhousingcorp.org.

**(10) Recycling Market Development Zone
(UC §59-10-1007)**

NOTE: An individual may not claim this credit or carry this credit forward into a year the individual has claimed the enterprise zone credit (nonrefundable credit, code 07) or the targeted business income tax credit (refundable credit, code 40).

Complete form TC-40R, Recycling Market Development Zone Tax Credit, with the Governor's Office of 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 credit is available to individuals and businesses operating in a designated recycling market development zone.

Contact the Governor's Office of Economic Development, 324 S State St, Suite 500, SLC, UT 84111, telephone (801) 538-8804; goed.utah.gov/incentives/recycling_zones or email lprall@utah.gov to obtain form TC-40R, certification, and for additional information.

**(12) Tax Credit for Increasing Research Activities
(UC §59-10-1012)**

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.

(13) Tax Credit for Machinery and Equipment Used to Conduct Research (UC §59-10-1013)

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 not less than 12 consecutive

months. A qualifying taxpayer may claim the credit in the taxable year following the taxable year for which the taxpayer qualifies for the credit.

(17) Credit for Fiduciary Income Tax Paid to Another State (UC §59-10-1003)

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 may be entitled to a credit against the Utah income tax.

To calculate the credit for fiduciary tax paid to another state, complete Schedule S, Part 5. Then carry the credit from line 7 to Schedule S, Part 3, using code 17. If there are two or more states, use a separate Schedule S, Part 5 for each other state and combine the total credits on line 7 to enter on Schedule S, Part 3, using code 17. Keep a copy of each state's fiduciary return for which a credit is claimed.

(21) Renewable Residential Energy Systems Tax Credit (UC §59-10-1014)

Form TC-40E, Renewable Residential and Commercial Energy Systems Tax Credits, must be obtained from the Utah Geological Survey with their certification stamp, verifying the credit has been approved and showing the amount of the approved credit. Do not send form TC-40E with your return. Keep the form and all related documents with your records.

This credit is for reasonable costs, including installation, of a residential energy system that supplies energy required for a residential unit in Utah. Additional residential energy systems or parts may be claimed in subsequent years as long as the total amount claimed does not exceed \$2,000 per residential unit. If the residence is sold to another, who is not a business entity, before claiming the tax credit, the taxpayer may irrevocably transfer to the new owner the right to the tax credit. The principal portion of lease payments for a residential energy system may qualify for the credit, if the lessor irrevocably transfers to the new owner the right to the tax credit.

Credit in excess of the taxpayer's liability may be carried forward to the four succeeding years.

For more information, contact the Utah Geological Survey (UGS), 1594 W North Temple, Suite 3110, Box 146100, SLC, UT 84114-6100, telephone (801) 538-5428, or at geology.utah.gov/sep/incentives/index.htm.

Line 13 – Subtract line 12 from line 11

If line 12 is greater than or equal to line 11, enter zero.

Line 14 – Amended Returns Only (Previous Refund)

This line is used only for amended returns. When 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 15 – 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.

Complete the worksheet on page 10 to determine the amount of use tax due.

Credit is allowed for sales or use tax paid to another state, but not a foreign country. If the tax rate in the other state is lower than Utah's rate, the consumer must pay the difference. If the tax rate in the other state is greater than Utah's rate, no sales or use tax

Use Tax Rate Chart (Effective Dec. 31, 2007)

.0600	Beaver County	.0600	San Juan County
.0700	Beaver City	.0650	Monticello
.0600	Box Elder County	.0600	Sanpete County
.0625	Brigham City, Perry, Willard	.0625	Ephraim, Gunnison, Mt. Pleasant
.0700	Snowville	.0600	Sevier County
.0610	Cache County	.0610	Aurora, Redmond
.0635	Cache Valley Transit, Hyde Park, Hyrum, Logan, Millville, Nibley, N.Logan, Providence, Richmond, River Heights, Smithfield	.0625	Richfield
		.0635	Salina
		.0610	Summit County
		.0735	Park City
		.0635	Snyderville Basin Transit
		.0600	Tooele County
.0600	Carbon County	.0625	Erda, Grantsville, Lakepoint, Lincoln, Stansbury Park
.0625	Wellington		Tooele City
.0635	Price	.0635	Tooele County
.0700	Daggett County	.0650	Uintah County
.0650	Davis County	.0675	Vernal
.0600	Duchesne County	.0625	Utah County
.0635	Roosevelt	.0650	Alpine, American Fork, Cedar Hills, Highland, Lehi, Lindon, Mapleton, Payson, Pleasant Grove, Provo, Provo Canyon, Salem, Spanish Fork, Springville
.0575	Emery County		
.0750	Green River		
.0700	Garfield County		
.0800	Boulder, Panguitch, Tropic		
.0600	Grand County		
.0775	Moab		
.0600	Iron County	.0660	Orem
.0610	Cedar City	.0600	Wasatch County
.0785	Brian Head	.0625	Heber
.0600	Juab County	.0725	Midway, Park City East
.0625	Nephi	.0600	Washington County
.0675	Kane County	.0625	Hurricane, Ivins, La Verkin, St. George, Santa Clara, Washington City
.0775	Kanab, Orderville		Springdale
.0575	Millard County		
.0600	Morgan County		
.0600	Piute County	.0750	Springdale
.0600	Rich County	.0600	Wayne County
.0700	Garden City	.0660	Weber County
.0685	Salt Lake County		
.0835	Alta		

credit or refund is allowed. 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 15.

Sales and use tax rates vary throughout Utah. Use the chart on page 9 to find the 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.

The sales tax rate on food or food ingredients purchased through the internet or by mail order is 2% less than the regular sales tax rate. In order to qualify for this reduced rate, the food or food ingredients must be for substances sold for ingestion or chewing by humans and consumed for the substance's taste or nutritional value. The reduced rate does not apply to alcoholic beverages or tobacco. For more information, see Tax Commission Publication 25, available at tax.utah.gov/forms.

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.

WORKSHEET FOR COMPUTING UTAH USE TAX		
1. Total amount of purchases subject to use tax		\$ _____
2. Use tax rate (decimal from chart, pg. 9)	x	_____
3. Multiply line 1 by line 2		\$ _____
4. Amount of purchases for food or food ingredients included on line 1		\$ _____
5. Multiply line 4 by .02		\$ _____
6. Subtract line 5 from line 3		\$ _____
7. Credit for sales tax paid to another state		\$ _____
8. Use tax due (subtract line 7 from line 6)		\$ _____
<i>Enter ZERO if less than ZERO</i>		

Line 16 – Total Tax, Additions and Use Tax
Add lines 13, 14 and 15.

Line 17 – Utah Tax Withheld
Enter the total amount of **UTAH TAX WITHHELD** on this line. Utah tax withheld is identified by the code **UT** and the amount withheld found on the following forms:

- W-2, boxes 15 and 17
- 1099-MISC, boxes 16 and 17
- 1099-R, boxes 10 and 11

Attach to your Utah return a copy of each form showing Utah withholding. Also, keep copies of all withholding forms with your records.

NOTE: If a Utah employer identification number is not shown on forms W-2 in box 15, 1099-R in box 11, or 1099-MISC in box 17, the withholding on that form may be disallowed. Contact the employer or payer of the income to obtain the Utah employer ID number and write it on the withholding form.

Nonresident Shareholder's Withholding Tax Credit is entered on Schedule S, Part 4, using code 43, and should **NOT** be entered on this line.

Line 18 – Credit for Utah Income Taxes Prepaid

Prepayments include payments you made with form TC-548, Fiduciary Income Tax Prepayment Coupon.

Line 19 – Amended Returns Only (Previous Payments)

This line should only be used for amended returns. When 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 20 – Refundable Credits

If you claim any of the following refundable credits, complete Schedule S, Part 4 on the second page of the Utah fiduciary return. On Schedule S, Part 4, write the **code and amount** of each refundable credit. Carry the sum of all refundable credits to line 20. An explanation of each refundable credit is listed below.

Codes for Schedule S, Part 4	
39	Renewable Commercial Energy System Tax Credit
40	Targeted Business Tax Credit
43	Nonresident Shareholder's Withholding Tax Credit
46	Mineral Production Withholding Tax Credit
47	Agricultural Off-highway Gas/Undyed Diesel Tax Credit
48	Farm Operation Hand Tools

(39) Renewable Commercial Energy System Tax Credit (UC §59-10-1106)

Form TC-40E, Renewable Residential and Commercial Energy Systems Tax Credits, must be obtained from the Utah Geological Survey with their certification stamp, verifying the credit has been approved and showing the amount of the approved credit. Do not send form TC-40E with your return. Keep the form and all related documents with your records.

This credit is for reasonable costs, including installation, of a commercial energy system that is an active solar system, a direct-use geothermal system, a geothermal heat-pump system, a hydroenergy system, or a passive solar system. Credit is also allowed for a commercial system that uses wind, geothermal electricity, of biomass equipment.

For more information, contact the Utah Geological Survey (UGS), 1594 W North Temple, Suite 3110, Box 146100, SLC, UT 84114-6100, telephone (801) 538-5428, or through the Internet at geology.utah.gov/sep/incentives/index.htm.

(40) Targeted Business Tax Credit (UC §63-38f-503)

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

A refundable credit is available to businesses providing a community investment project as defined in UC §63-38f-501 through §63-38f-503. Obtain a certified copy of form TC-40TB, Targeted Business Income Tax Credit. Keep this form and all related documents with your records.

Contact the Governor's Office of Economic Development, 324 S State St., Suite 500, SLC, UT 84111, telephone (801) 538-8804, goed.utah.gov/incentives/enterprise_zones or email lprall@utah.gov to obtain form TC-40TB, certification, or for additional information.

(43) Nonresident Shareholder's Withholding Tax Credit (non/part-year residents only)
(UC §59-10-1103)

Keep the federal Schedule K-1 issued by the corporation and all other related documents with your records. Do not attach them 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 on Schedule S. 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 enter an "X" in the box on line 3 of form TC-41.

Do not include Nonresident Shareholder's Withholding Tax Credit with the withholding tax on line 17.

(46) Mineral Production Withholding Tax Credit
(UC §59-6-102(3))

Enter the total of the mineral production tax withheld as shown on forms TC-675R or federal Schedule K-1(s) for 2007.

Attach copies of form TC-675R or federal Schedule 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 (UC §59-13-202)

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.

Credit calculation:

Gallons _____ x .245 = Credit _____

(48) Farm Operation Hand Tools
(UC §59-10-1105)

There is no form for this credit. Keep all related documents (receipts, invoices, and documents showing amount of sales or use tax paid) with your records.

The refundable credit is allowed for sales and use tax paid on hand tools purchased and used or consumed primarily and directly in a farming operation in Utah. The credit only applies if the purchase price of a tool is more than \$250.

Line 21 – Total Withholding and Credits

Add lines 17 through 20.

Line 22 – Tax Due

If the amount on line 16 is greater than the amount on line 21, subtract line 21 from line 16. This is the tax you owe. **Complete the TC-549 coupon on page 17 and include it with your payment.**

Line 23 – Penalty and Interest

If you are filing your return late or paying any tax due late, you may be subject to penalty and interest. You may calculate your penalty and interest by using the Penalty and Interest Calculator online at tax.utah.gov/picalc or by following the instructions in Pub 58, available online at tax.utah.gov/forms. If you do not include all applicable penalties and interest with your return, or the penalty and/or interest was calculated incorrectly, the Tax Commission will send you a bill.

Add together any penalty and interest you owe and enter the total in the box on line **23a**. Then add this amount to the tax due on line **22** and enter this total on line **23**. This is the total amount you should remit with your return. **Complete the TC-549 coupon on page 17 and include it with your payment.**

PENALTIES: The penalty for failure to file a tax due return by the due date is a percentage of the unpaid tax, based on the number of days late. The penalty for failure to pay tax due as reported on a timely filed return is a percentage of the tax due, based on the number of days late. Details for calculating these penalties can be found at tax.utah.gov/billing/penaltyinterest.html and in Pub 58 available at tax.utah.gov/forms. Include these penalties on line 23a, if applicable.

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. Also, include this penalty on line 23a, if applicable.

There is no penalty for filing a return late (including an amended return) if there is no tax due on the return.

INTEREST: Calculate interest due from the due date (April 15, 2008) to the date paid using the 2008 rate of **7 percent** (or applicable rate if after 2008). Include this interest on line 23a, if applicable.

PAYMENT OPTIONS

You may pay tax online with your credit card or with an electronic check (ACH debit) from your checking account. 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 "2007 TC-41" on your check. **DO NOT STAPLE** check to return. Remove the check stub before sending. **DO NOT MAIL CASH** with your return. The Tax Commission assumes no liability for loss of cash placed in mail. Include the TC-549 coupon on page 17 with your payment. Mail your payment, coupon 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.

PAYMENT AGREEMENT REQUEST: If you owe tax and are unable to pay all of the amount owed, you may request a payment agreement by completing form TC-804B, Payment Agreement Request, available at **tax.utah.gov/forms**. You can also complete the request by accessing Utah Online Payment Agreement at **tax.utah.gov/billing/payment.html**. 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.

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, completing the Utah Online Payment Agreement at **tax.utah.gov/billing/payment.html**, or calling (801) 297-7703 or 1-800-662-

4335 ext. 7703. If you do not receive confirmation of your payment plan within 45 days, please call us.

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

NOTE: A payment plan cannot be set up until your return is processed.

Line 24 – Refund

If the amount on line 21 is greater than the amount on line 16, subtract line 16 from line 21. This is your refund.

Completing The Return

Signature

The return must be signed 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 2007 Utah return with the paid preparer who signed it, enter an "X" in the box on the right side of the signature area of the return where indicated. 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 you enter an "X" in the box, 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, 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, complete and submit to the Tax Commission form TC-737, Power of Attorney and Declaration of Representative. Form TC-737 is available on our website at **tax.utah.gov/forms**.

The authorization will automatically end no later than the due date (without regard to extensions) for filing the entity's 2008 tax return. If you wish to revoke the authorization before it ends, submit your request in writing to the Utah State Tax Commission, attention Taxpayer Services, 210 N 1950 W, SLC, UT 84134.

Paid Preparer Requirements

The paid preparer must enter his or her name, address and social security number or PTIN in the section below the taxpayer's 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

Instructions for Schedule A – Nonresident Estate or Trust

A nonresident estate or trust must report the portion of its federal taxable income 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 included 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 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 UC §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 UC §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.

Instructions for Schedule B – Bankruptcy Estate

The filing of a bankruptcy petition for an individual debtor under chapter 7 or chapter 11 of the bankruptcy code creates a separate taxable bankruptcy estate. The trustee (for chapter 7 cases) or the debtor-in-possession (for chapter 11 cases) is generally responsible for preparing and filing the estate's tax returns and paying its taxes. The debtor remains responsible for filing returns and paying taxes on any income that does not belong to the estate.

Amended Return. If a bankruptcy case begins, but is later dismissed by the bankruptcy court, the estate is not treated as a separate taxable entity. If tax returns have been filed for the estate, amended returns must be filed to move income and deductions from the estate's returns to the debtor's returns. If no returns have been filed, report all income and deductions on the debtor's returns.

Utah Instructions. A trustee or debtor-in-possession of a bankruptcy estate (chapter 7 or chapter 11) must file form TC-41, Utah Fiduciary Income Tax Return, and attach a completed Schedule B, Bankruptcy Estate Tax Calculation. Leave lines 4 through 9 of the TC-41 blank. Lines 10 and 11 are completed with information calculated on the Schedule B. Then lines 12 through 24 of the TC-41 are completed according to the regular fiduciary instructions.

The estate's tax liability is determined by completing the Schedule B with information and calculations similar to the Utah TC-40, Individual Income Tax Return. When completing the Schedule B, the following limitations apply:

- The Utah personal exemption is limited to 75% of a single federal personal exemption amount, or \$2,550.
- The estate is limited to the standard deduction for a married taxpayer filing separately of \$5,350, or if greater, the itemized deductions claimed on the federal form 1040 (which is attached to the federal fiduciary return, form 1041).

Line 1 – Federal Adjusted Gross Income

Enter the amount from line 37 of your federal return, form 1040, filed for the bankruptcy estate.

Line 2 – Additions to Income

Enter the code and amount of each addition to income here. Codes and explanations for these additions to income are found in the TC-40 tax return instruction booklet, page 6.

Line 3 – Add lines 1 and 2

Enter the total of line 1 and line 2.

Line 4 – State Tax Refund Included in Federal Income

Enter the amount of state income tax refund included on line 10 of the federal form 1040, if any.

Line 5 – Deductions from Income

Enter the code and amount of each deduction from income here. Codes and explanations for these deductions from income are found in the TC-40 tax return instruction booklet, page 7.

Line 6 – Add lines 4 and 5

Enter the total of line 4 and line 5.

Line 7 – Modified Federal Adjusted Gross Income

Subtract line 6 from line 3. This is the figure used to compute the Utah single rate tax on line 18.

Line 8 – State Income Tax Deducted as an Itemized Deduction

Enter the amount, if any, of state income tax deducted on federal Schedule A, line 5. If you did not itemize your deductions on Schedule A, leave this line blank.

Line 9 – Total Adjusted Income

Enter the total of line 7 and line 8.

Line 10 – Standard or Itemized Deductions

Enter the greater of the standard deduction allowed a married taxpayer filing separately (\$5,350) or the total itemized deductions from federal form 1040, Schedule A.

Line 11 – Personal Exemption

A bankruptcy estate is allowed one personal exemption. The amount allowed is 75% of the federal exemption amount of \$3,400, or a Utah exemption of \$2,550.

Line 12 – One-half Federal Tax

Enter one-half the total federal tax shown on form 1040, lines 57 and 60. Note: if any recapture taxes were reported on federal form 1040, they must be added to the total of lines 57 and 60 before calculating the one-half federal tax deduction.

Line 13 – Retirement Exclusion/Deduction

If applicable, complete form TC-40B to determine your allowable exemption/deduction. Attach the completed form TC-40B to your Utah fiduciary return. Details are found in the TC-40 tax return instructions booklet, page 8.

Line 14 – Other Deductions from Income

Enter the code and amount of each other deduction from income here. Codes and explanations for these other deductions from income are found in the TC-40 tax return instruction booklet, page 9.

Line 15 – Add lines 10 through 14

Enter the total of line 10 through line 14.

Line 16 – Utah Taxable Calculation

Subtract the amount on line 15 from the amount on line 9. Do not enter an amount less than zero. **Carry this amount to line 10 on the front of TC-41.**

Use the amount on line 16 to calculate the traditional tax on line 17 from the the tax schedule on page 17 of these instructions.

Line 17 – Traditional Tax Calculation

Calculate the tax on the taxable income entered on line 16, using the tax rate schedule on page 17 of these instructions.

Line 18 – Single Rate Tax Calculation

Multiply the modified federal adjusted gross income on line 7 by 5.35% (.0535).

Line 19 – Utah Income Tax

Enter the lesser of the traditional tax from line 17 or the single rate tax from line 18. This is the 2007 Utah income tax for the bankruptcy estate. **Carry this amount to line 11 on the front of TC-41.**

Line 20 - 23 – Non or Part-year Resident

If filing for a nonresident or part-year resident bankruptcy estate, complete form TC-40C and attach it to the TC-41 return. Instructions are found in the TC-40 tax return booklet, page 11. Calculate the Utah fiduciary tax on line 23 and carry this amount to line 11 on the front of TC-41.

Reminder: Be sure to indicate on the TC-41 in box 1 that this is a Chapter 7 Bankruptcy Estate (code A) or a chapter 11 Bankruptcy Estate (code B).

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 use the regular instructions for Utah Form TC-41, Utah Fiduciary Income Tax Return.

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 is 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 \$8,800 contribution limit, you must determine not only whether there have been contributions in excess of \$8,800, 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.
- 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 16.

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.

2007 Utah Tax Rate Schedule

If the state taxable income on line 10 is:	The tax to enter on line 11 is:
\$0 to \$1,000	2.3% of state taxable income
\$1,001 to \$2,000	\$23, plus 3.3% of excess over \$1,000
\$2,001 to \$3,000	\$56, plus 4.2% of excess over \$2,000
\$3,001 to \$4,000	\$98, plus 5.2% of excess over \$3,000
\$4,001 to \$5,500	\$150, plus 6% of excess over \$4,000
Over \$5,500	\$240, plus 6.98% of excess over \$5,500

SEPARATE AND RETURN ONLY THE BOTTOM PORTION WITH PAYMENT. KEEP TOP PORTION FOR YOUR RECORDS.

Fiduciary Income Tax Return Payment Coupon

Tax year
2007

For Office Use Only

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

TC-549
Rev. 12/06

Name of estate or trust		Federal ID number	
Name of fiduciary			
Fiduciary address			
City	State	Zip code	
Payment amount enclosed		\$	00

FID 008

Make check or money order payable to the Utah State Tax Commission. Do not send cash. Do not staple check to coupon. Detach check stub.

Utah State Tax Commission
210 North 1950 West
Salt Lake City, UT 84134

PRESORTED
STANDARD
U. S. POSTAGE PAID
UTAH STATE TAX COMM.