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# PASS-THROUGH ENTITY TAX AMENDMENTS

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Steve Eliason**

5 **Senate Sponsor: Curtis S. Bramble**

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7 **LONG TITLE**

8 **Committee Note:**

9 The Revenue and Taxation Interim Committee recommended this bill.

10 **General Description:**

11 This bill amends individual income tax provisions related to pass-through entities.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ addresses state taxable income for pass-through entities; and  
15 ▶ makes technical and conforming changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 This bill provides retrospective operation.

20 **Utah Code Sections Affected:**

21 AMENDS:

22 [59-10-117](#), as last amended by Laws of Utah 2011, Chapter 53

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

25 Section 1. Section [59-10-117](#) is amended to read:

26 **59-10-117. State taxable income derived from Utah sources.**

27 (1) For purposes of Section [59-10-116](#), state taxable income derived from Utah sources

28 includes ~~[those items includable in]~~ state taxable income attributable to or resulting from:

29 (a) the ownership in this state of any interest in real or tangible personal property,  
30 including real property or property rights from which gross income from mining as ~~[defined]~~  
31 described by Section 613(c), Internal Revenue Code, is derived;

32 (b) the carrying on of a business, trade, profession, or occupation in this state;

33 (c) an addition to adjusted gross income required by Subsection [59-10-114](#)(1)(c), (d),  
34 or (h) to the extent that the addition was previously subtracted from state taxable income;

35 (d) a subtraction from adjusted gross income required by Subsection [59-10-114](#)(2)(c)  
36 for a refund described in Subsection [59-10-114](#)(2)(c) to the extent that the refund subtracted is  
37 related to a tax imposed by this state; or

38 (e) an adjustment to adjusted gross income required by Section [59-10-115](#) to the extent  
39 the adjustment is related to an item described in Subsections (1)(a) through (d).

40 (2) For ~~[the]~~ purposes of Subsection (1):

41 (a) income from intangible personal property, including annuities, dividends, interest,  
42 and gains from the disposition of intangible personal property, shall constitute income derived  
43 from Utah sources only to the extent that the income is from property employed in a trade,  
44 business, profession, or occupation carried on in this state;

45 (b) a deduction with respect to a capital loss, net long-term capital gain, or net  
46 operating loss shall be:

47 (i) based solely on income, gain, loss, and deduction connected with Utah sources,  
48 under rules prescribed by the commission in accordance with Title 63G, Chapter 3, Utah

49 Administrative Rulemaking Act~~[-but]; and~~  
50 (ii) otherwise ~~[shall be]~~ determined in the same manner as the corresponding federal  
51 deductions;  
52 (c) a salary, wage, commission, or compensation for personal services rendered outside  
53 this state may not be considered to be derived from Utah sources;  
54 (d) a ~~[nonresident shareholder's distributive]~~ share of ~~[ordinary]~~ income, gain, loss,  
55 ~~and~~ deduction, or credit of a nonresident pass-through entity taxpayer, as defined in Section  
56 [59-10-1402](#), derived from or connected with Utah sources shall be determined ~~[under]~~ in  
57 accordance with Section [59-10-118](#);  
58 (e) a nonresident, other than a dealer holding property primarily for sale to customers

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59 in the ordinary course of the dealer's trade or business, may not be considered to carry on a  
60 trade, business, profession, or occupation in this state solely by reason of the purchase or sale  
61 of property for the nonresident's own account;

62 (f) if a trade, business, profession, or occupation is carried on partly within and partly  
63 without this state, an item of income, gain, loss, or a deduction derived from or connected with  
64 Utah sources shall be determined in accordance with Section [59-10-118](#);

65 ~~[(g) a nonresident partner's distributive share of partnership income, gain, loss,~~  
66 ~~deduction, or credit derived from or connected with Utah sources shall be determined under~~  
67 ~~Part 14, Pass Through Entities and Pass Through Entity Taxpayers Act;]~~

68 ~~[(h)]~~ (g) the share of a nonresident estate or trust or a nonresident beneficiary of any  
69 estate or trust in income, gain, loss, or deduction derived from or connected with Utah sources  
70 shall be determined under Section [59-10-207](#); and

71 ~~[(i)]~~ (h) any dividend, interest, or distributive share of income, gain, or loss from a real  
72 estate investment trust, as defined in Section [59-7-101](#), distributed or allocated to a nonresident  
73 investor in the trust, including any shareholder, beneficiary, or owner of a beneficial interest in  
74 the trust, shall:

75 (i) be income from intangible personal property under Subsection (2)(a)~~[-r]~~; and ~~[shall]~~

76 (ii) constitute income derived from Utah sources only to the extent the nonresident  
77 investor is employing its beneficial interest in the trust in a trade, business, profession, or  
78 occupation carried on by the investor in this state.

79 Section 2. **Retrospective operation.**

80 This bill has retrospective operation for a taxable year beginning on or after January 1,  
81 2017.

**PROPERTY TAX ASSESSMENT APPEAL AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Joel K. Briscoe**

Senate Sponsor: Daniel Hemmert

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**LONG TITLE**

**Committee Note:**

The Revenue and Taxation Interim Committee recommended this bill.

**General Description:**

This bill establishes the time periods for filing an appeal under the Farmland Assessment Act and the Urban Farming Assessment Act.

**Highlighted Provisions:**

This bill:

- ▶ establishes the time periods for filing an appeal under the Farmland Assessment Act and the Urban Farming Assessment Act; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**59-2-506**, as last amended by Laws of Utah 2014, Chapter 279

**59-2-1705**, as last amended by Laws of Utah 2014, Chapters 279 and 413

ENACTS:

**59-2-516**, Utah Code Annotated 1953



28 **59-2-1713**, Utah Code Annotated 1953



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

31 Section 1. Section **59-2-506** is amended to read:

32 **59-2-506. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien --**  
33 **Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.**

34 (1) Except as provided in this section, Section **59-2-506.5**, or Section **59-2-511**, if land  
35 is withdrawn from this part, the land is subject to a rollback tax imposed in accordance with  
36 this section.

37 (2) (a) An owner shall notify the county assessor that land is withdrawn from this part  
38 within 120 days after the day on which the land is withdrawn from this part.

39 (b) An owner that fails to notify the county assessor under Subsection (2)(a) that land is  
40 withdrawn from this part is subject to a penalty equal to the greater of:

41 (i) \$10; or

42 (ii) 2% of the rollback tax due for the last year of the rollback period.

43 (3) (a) The county assessor shall determine the amount of the rollback tax by  
44 computing the difference for the rollback period described in Subsection (3)(b) between:

45 (i) the tax paid while the land was assessed under this part; and

46 (ii) the tax that would have been paid had the property not been assessed under this  
47 part.

48 (b) For purposes of this section, the rollback period is a time period that:

49 (i) begins on the later of:

50 (A) the date the land is first assessed under this part; or

51 (B) five years preceding the day on which the county assessor mails the notice required  
52 by Subsection (5); and

53 (ii) ends the day on which the county assessor mails the notice required by Subsection  
54 (5).

55 (4) (a) The county treasurer shall:

56 (i) collect the rollback tax; and

57 (ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien  
58 on the property has been satisfied by:

59 (A) preparing a document that certifies that the rollback tax lien on the property has  
60 been satisfied; and

61 (B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder  
62 for recordation.

63 (b) The county treasurer shall pay the rollback tax collected under this section [~~shall~~]:

64 (i) [~~be paid~~] into the county treasury; and

65 (ii) [~~be paid by the county treasurer~~] to the various taxing entities pro rata in  
66 accordance with the property tax levies for the current year.

67 (5) (a) The county assessor shall mail to an owner of the land that is subject to a  
68 rollback tax a notice that:

69 (i) the land is withdrawn from this part;

70 (ii) the land is subject to a rollback tax under this section; and

71 (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within  
72 30 days after the day on which the county assessor mails the notice described in this Subsection  
73 (5)(a).

74 (b) (i) The rollback tax is due and payable on the day the county assessor mails the  
75 notice required by Subsection (5)(a).

76 (ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that  
77 is withdrawn from this part does not pay the rollback tax within 30 days after the day on which  
78 the county assessor mails the notice required by Subsection (5)(a).

79 (6) (a) Subject to Subsection (6)(b), the following are a lien on the land assessed under  
80 this part:

81 (i) the rollback tax; and

82 (ii) interest imposed in accordance with Subsection (7).

83 (b) The lien described in Subsection (6)(a) shall:

84 (i) arise upon the imposition of the rollback tax under this section;

85 (ii) end on the day on which the rollback tax and interest imposed in accordance with  
86 Subsection (7) are paid in full; and

87 (iii) relate back to the first day of the rollback period described in Subsection (3)(b).

88 (7) (a) A delinquent rollback tax under this section shall accrue interest:

89 (i) from the date of delinquency until paid; and

90 (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1  
91 of the year in which the delinquency occurs.

92 (b) [A] The county treasurer shall include in the notice required by Section 59-2-1317 a  
93 rollback tax that is delinquent on September 1 of any year [~~shall be included on the notice~~  
94 ~~required by Section 59-2-1317, along with~~] and interest calculated on that delinquent amount  
95 through November 30 of the year in which the county treasurer provides the notice under  
96 Section 59-2-1317.

97 (8) (a) Land that becomes ineligible for assessment under this part only as a result of an  
98 amendment to this part is not subject to the rollback tax if the owner of the land notifies the  
99 county assessor, in accordance with Subsection (2), that the land is withdrawn from this part  
100 [~~in accordance with Subsection (2)~~].

101 (b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of  
102 an event other than an amendment to this part, whether voluntary or involuntary, is subject to  
103 the rollback tax.

104 (9) Except as provided in Section 59-2-511, land that becomes exempt from taxation  
105 under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land  
106 meets the requirements of Section 59-2-503 to be assessed under this part.

107 (10) Land that becomes ineligible for assessment under this part only as a result of a  
108 split estate mineral rights owner exercising the right to extract a mineral is not subject to the  
109 rollback tax:

110 (a) (i) for the portion of the land required by a split estate mineral rights owner to  
111 extract a mineral if, after the split estate mineral rights owner exercises the right to extract a  
112 mineral, the portion of the property that remains in agricultural production still meets the  
113 acreage requirements of Section 59-2-503 for assessment under this part; or

114 (ii) for the entire acreage that would otherwise qualify for assessment under this part if,  
115 after the split estate mineral rights owner exercises the right to extract a mineral, the entire  
116 acreage that would otherwise qualify for assessment under this part no longer meets the acreage  
117 requirements of Section 59-2-503 for assessment under this part only due to the extraction of  
118 the mineral by the split estate mineral rights owner; and

119 (b) for the period of time that the property described in Subsection (10)(a) is ineligible  
120 for assessment under this part due to the extraction of a mineral by the split estate mineral

121 rights owner.

122 ~~[(11)(a) Subject to Subsection (11)(b), an owner of land may appeal to the county~~  
 123 ~~board of equalization:]~~

124 ~~[(i) a decision by a county assessor to withdraw land from assessment under this part;~~  
 125 ~~or]~~

126 ~~[(ii) the imposition of a rollback tax under this section.]~~

127 ~~[(b) An owner shall file an appeal under Subsection (11)(a) no later than 45 days after~~  
 128 ~~the day on which the county assessor mails the notice required by Subsection (5).]~~

129 Section 2. Section **59-2-516** is enacted to read:

130 **59-2-516. Appeal to the county board of equalization.**

131 Notwithstanding Section [59-2-1004](#) or [63G-4-301](#), the owner of land may appeal the  
 132 determination or denial of a county assessor to the county board of equalization within 45 days  
 133 after the day on which:

134 (1) the county assessor makes a determination under this part; or

135 (2) the county assessor's failure to make a determination results in the owner's request  
 136 being considered denied under this part.

137 Section 3. Section **59-2-1705** is amended to read:

138 **59-2-1705. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien --**  
 139 **Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.**

140 (1) Except as provided in this section or Section [59-2-1710](#), land that is withdrawn  
 141 from this part is subject to a rollback tax imposed as provided in this section.

142 (2) (a) An owner shall notify the county assessor that land is withdrawn from this part  
 143 within 120 days after the day on which the land is withdrawn from this part.

144 (b) An owner who fails to notify the county assessor under Subsection (2)(a) that land  
 145 is withdrawn from this part is subject to a penalty equal to the greater of:

146 (i) \$10; or

147 (ii) 2% of the rollback tax due for the last year of the rollback period.

148 (3) (a) The county assessor shall determine the amount of the rollback tax by  
 149 computing the difference for the rollback period described in Subsection (3)(b) between:

150 (i) the tax paid while the land was assessed under this part; and

151 (ii) the tax that would have been paid had the property not been assessed under this

152 part.

153 (b) For purposes of this section, the rollback period is a time period that:

154 (i) begins on the later of:

155 (A) the date the land is first assessed under this part; or

156 (B) five years preceding the day on which the county assessor mails the notice required  
157 by Subsection (5); and

158 (ii) ends the day on which the county assessor mails the notice required by Subsection  
159 (5).

160 (4) (a) The county treasurer shall:

161 (i) collect the rollback tax; and

162 (ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien  
163 on the property has been satisfied by:

164 (A) preparing a document that certifies that the rollback tax lien on the property has  
165 been satisfied; and

166 (B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder  
167 for recording.

168 (b) The county treasurer shall pay the rollback tax collected under this section [~~shall~~]:

169 (i) [~~be paid~~] into the county treasury; and

170 (ii) [~~be paid by the county treasurer~~] to the various taxing entities pro rata in  
171 accordance with the property tax levies for the current year.

172 (5) (a) The county assessor shall mail to an owner of the land that is subject to a  
173 rollback tax a notice that:

174 (i) the land is withdrawn from this part;

175 (ii) the land is subject to a rollback tax under this section; and

176 (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within  
177 30 days after the day on which the county assessor mails the notice described in this Subsection  
178 (5)(a).

179 (b) (i) The rollback tax is due and payable on the day the county assessor mails the  
180 notice required by Subsection (5)(a).

181 (ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that  
182 is withdrawn from this part does not pay the rollback tax within 30 days after the day on which



183 the county assessor mails the notice required by Subsection (5)(a).

184 (6) (a) Subject to Subsection (6)(b), the rollback tax and interest imposed under  
185 Subsection (7) are a lien on the land assessed under this part.

186 (b) The lien described in Subsection (6)(a) shall:

187 (i) arise upon the imposition of the rollback tax under this section;

188 (ii) end on the day on which the rollback tax and interest imposed under Subsection (7)  
189 are paid in full; and

190 (iii) relate back to the first day of the rollback period described in Subsection (3)(b).

191 (7) (a) A delinquent rollback tax under this section shall accrue interest:

192 (i) from the date of delinquency until paid; and

193 (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1  
194 of the year in which the delinquency occurs.

195 (b) ~~[A] The county treasurer shall include in the notice required by Section 59-2-1317 a~~  
196 ~~rollback tax that is delinquent on September 1 of any year [shall be included on the notice~~  
197 ~~required by Section 59-2-1317, along with] and~~ interest calculated on that delinquent amount  
198 through November 30 of the year in which the county treasurer provides the notice under  
199 Section 59-2-1317.

200 (8) (a) Land that becomes ineligible for assessment under this part only as a result of an  
201 amendment to this part is not subject to the rollback tax if the owner of the land notifies the  
202 county assessor, in accordance with Subsection (2), that the land is withdrawn from this part  
203 ~~[in accordance with Subsection (2)]~~.

204 (b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of  
205 an event other than an amendment to this part, whether voluntary or involuntary, is subject to  
206 the rollback tax.

207 (9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation  
208 under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land  
209 meets the requirements of Section 59-2-1703 to be assessed under this part.

210 ~~[(10) (a) Subject to Subsection (10)(b), an owner of land may appeal to the county~~  
211 ~~board of equalization:]~~

212 ~~[(i) a decision by a county assessor to withdraw land from assessment under this part;~~  
213 ~~or]~~

214 ~~[(ii) the imposition of a rollback tax under this section.]~~  
215 ~~[(b) An owner shall file an appeal under Subsection (10)(a) no later than 45 days after~~  
216 ~~the day on which the county assessor mails the notice required by Subsection (5).]~~  
217 Section 4. Section **59-2-1713** is enacted to read:  
218 **59-2-1713. Appeal to the county board of equalization.**  
219 Notwithstanding Section [59-2-1004](#) or [63G-4-301](#), the owner of land may appeal the  
220 determination or denial of a county assessor to the county board of equalization within 45 days  
221 after the day on which:  
222 (1) the county assessor makes a determination under this part; or  
223 (2) the county assessor's failure to make a determination results in the owner's request  
224 being considered denied under this part.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**

**TAX COMMISSION AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel Hemmert**

House Sponsor: Jon E. Stanard

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**LONG TITLE**

**Committee Note:**

The Revenue and Taxation Interim Committee recommended this bill.

**General Description:**

This bill amends provisions relating to closed meetings held by the State Tax Commission.

**Highlighted Provisions:**

This bill:

- ▶ defines terms; and
- ▶ authorizes the State Tax Commission to hold a meeting that is not open to the public to provide guidance to its employees on the interpretation and application of the tax laws of the state following action by the commission in a public meeting or issuance of a commission or court decision.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**59-1-405**, as enacted by Laws of Utah 2011, Chapter 215

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

29 Section 1. Section **59-1-405** is amended to read:

30 **59-1-405. Commission consideration of confidential tax matters.**

31 (1) As used in this section, "confidential tax matter" means:

32 (a) an offer in compromise;

33 (b) a private letter ruling;

34 (c) an appeal before the members of the commission;

35 (d) a tax matter if the disclosure of the tax matter is prohibited under:

36 (i) federal law;

37 (ii) Section [59-1-403](#); or

38 (iii) Section [59-1-404](#);

39 (e) a voluntary disclosure agreement; [or]

40 (f) a waiver request[-]; or

41 (g) provision of guidance by the commission to an employee of the commission on the

42 interpretation and application of the tax laws of the state following:

43 (i) a commission action taken in a public meeting; or

44 (ii) a commission or court decision that interprets a tax law of the state.

45 (2) (a) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, the  
46 commission may hold a meeting that is not open to the public to conduct a hearing on, discuss,  
47 or take action on a confidential tax matter in accordance with the rules established as provided  
48 under this section.

49 (b) When the commission holds a meeting described in Subsection (2)(a) on a

50 confidential tax matter described in Subsection (1)(g), the meeting:

51 (i) shall include:

52 (A) the commission's executive director; or

53 (B) the executive director's designee; and

54 (ii) may include any other commission employee as determined by the commission.

55 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
56 commission shall make rules:

57 (a) to establish procedures for holding a meeting that is not open to the public to  
58 conduct a hearing on, discuss, or take action on a confidential tax matter; and

59 (b) except as provided in Subsection (4), to establish procedures and requirements for  
60 keeping confidential minutes and a confidential recording of a meeting that is not open to the  
61 public.

62 (4) For purposes of Subsection (3)(b), the commission is not required to make rules to  
63 establish procedures and requirements for keeping confidential minutes and a confidential  
64 recording of:

- 65 (a) an initial hearing to the extent provided in Section [59-1-502.5](#); or
- 66 (b) private analysis, contemplation, and discussion by members of the commission:
  - 67 (i) in performing the judicial aspects of their duties; and
  - 68 (ii) consistent with state case law.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**

1                   **NATURAL GAS HEAVY DUTY TAX CREDIT AMENDMENTS**

2   2017 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Daniel Hemmert**

5                                   House Sponsor: Jon E. Stanard

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7   **LONG TITLE**

8   **Committee Note:**

9           The Revenue and Taxation Interim Committee recommended this bill.

10 **General Description:**

11          This bill amends the corporate and individual natural gas heavy duty tax credits.

12 **Highlighted Provisions:**

13          This bill:

- 14           ▶ clarifies that a corporate tax credit is nonrefundable;
- 15           ▶ amends definitions;
- 16           ▶ removes references to qualified conversions; and
- 17           ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19          None

20 **Other Special Clauses:**

21          This bill provides retrospective operation.

22 **Utah Code Sections Affected:**

23 AMENDS:

24           **59-7-618**, as last amended by Laws of Utah 2016, Chapter 375

25           **59-10-1033**, as last amended by Laws of Utah 2016, Chapter 375

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



28 Section 1. Section **59-7-618** is amended to read:

29 **59-7-618. Tax credit related to natural gas heavy duty vehicles.**

30 (1) As used in this section:

31 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air  
32 Conservation Act.

33 (b) "Director" means the director of the Division of Air Quality appointed under  
34 Section 19-2-107.

35 ~~[(b)]~~ (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according  
36 to vehicle classifications established by the Federal Highway Administration.

37 ~~[(c)]~~ (d) "Natural gas" includes compressed natural gas and liquified natural gas.

38 ~~[(d)]~~ (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

39 (i) has never been titled or registered and has been driven less than 7,500 miles; and

40 (ii) is fueled by natural gas.

41 ~~[(e)]~~ (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

42 ~~[(f)]~~ (g) "Qualified taxpayer" means a taxpayer ~~[who]~~ that:

43 (i) purchases a qualified heavy duty vehicle; and

44 (ii) receives a tax credit certificate from the ~~[board]~~ director.

45 ~~[(g)]~~ (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and  
46 owned by a single taxpayer.

47 ~~[(h)]~~ (i) "Tax credit certificate" means a certificate issued by the ~~[board]~~ director  
48 certifying that a taxpayer is entitled to a tax credit as provided in this section and stating the  
49 amount of the tax credit.

50 (2) ~~[For a taxable year beginning on or after January 1, 2015, a]~~ A qualified taxpayer  
51 may claim a nonrefundable tax credit against tax otherwise due under this chapter or Chapter 8,  
52 Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or  
53 Income Tax Act:

54 (a) in an amount equal to:

55 (i) \$25,000, if the qualified purchase occurs during calendar year 2015, calendar year  
56 2016, or calendar year 2017;

57 (ii) \$20,000, if the qualified purchase occurs during calendar year 2018;

58 (iii) \$18,000, if the qualified purchase occurs during calendar year 2019; and

59 (iv) \$15,000, if the qualified purchase occurs during calendar year 2020; and  
60 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the  
61 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be  
62 within the state.

63 (3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an  
64 application for, and the ~~[board]~~ director may not issue to the taxpayer, a tax credit certificate  
65 under this section in any taxable year for a ~~[qualifying]~~ qualified purchase if the ~~[board]~~  
66 director has already issued tax credit certificates to the taxpayer for 10 ~~[qualifying]~~ qualified  
67 purchases in the same taxable year.

68 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of  
69 tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application  
70 for, and the ~~[board]~~ director may issue to the taxpayer, one or more tax credit certificates for up  
71 to eight additional ~~[qualifying]~~ qualified purchases, even if the ~~[board]~~ director has already  
72 issued to that taxpayer tax credit certificates for the maximum number of ~~[qualifying]~~ qualified  
73 purchases allowed under Subsection (3)(a).

74 (4) (a) Subject to Subsection (4)(b), the ~~[board]~~ director shall reserve 25% of all tax  
75 credits available under this section for qualified taxpayers with a small fleet.

76 (b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or  
77 the ~~[board]~~ director from issuing, a tax credit certificate if ~~[the]~~, before October 1, qualified  
78 taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for the full  
79 amount reserved under Subsection (4)(a) [for taxpayers with a small fleet has not been claimed  
80 by a date that is 90 days before the end of the year].

81 (5) (a) The aggregate annual total amount of tax credits represented by tax credit  
82 certificates that the ~~[board]~~ director issues under this section~~[, when combined with the~~  
83 ~~aggregate annual total amount of tax credits represented by tax credit certificates that the board~~  
84 ~~issues under] and~~ Section 59-10-1033[;] may not exceed \$500,000.

85 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative  
86 Rulemaking Act, make rules to establish a process ~~[whereby]~~ under which a taxpayer may  
87 reserve a potential tax credit under this section for a limited time to allow the taxpayer to make  
88 a ~~[qualifying]~~ qualified purchase with the assurance that the aggregate limit under Subsection  
89 (5)(a) will not be met before the taxpayer is able to submit an application for a tax credit



90 certificate.

91 (6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms  
92 the board requires by rule:

93 (A) submit to the ~~[board]~~ director an application for a tax credit;

94 (B) provide the ~~[board]~~ director proof of a ~~[qualifying]~~ qualified purchase; and

95 (C) submit to the ~~[board]~~ director the certification under oath required under  
96 Subsection (2)(b).

97 (ii) Upon receiving the application, proof, and certification required under Subsection  
98 (6)(a)(i), the ~~[board]~~ director shall provide the taxpayer a written statement from the ~~[board]~~  
99 director acknowledging receipt of the proof.

100 (b) If the ~~[board]~~ director determines that a taxpayer qualifies for a tax credit under this  
101 section, the ~~[board]~~ director shall:

102 (i) determine the amount of tax credit the taxpayer is allowed under this section; and

103 (ii) provide the ~~[qualifying]~~ taxpayer with a written tax credit certificate:

104 (A) stating that the taxpayer has qualified for a tax credit; and

105 (B) showing the amount of tax credit for which the taxpayer has qualified under this  
106 section.

107 (c) A qualified taxpayer shall retain the tax credit certificate.

108 (d) The ~~[board]~~ director shall at least annually submit to the commission a list of all  
109 qualified taxpayers to ~~[whom the board]~~ which the director has issued a tax credit certificate  
110 and the amount of each tax credit represented by the tax credit certificates.

111 (7) The tax credit under this section is allowed only:

112 (a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain  
113 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year  
114 by the qualified taxpayer;

115 (b) for the taxable year in which the ~~[qualifying]~~ qualified purchase occurs; and

116 (c) once per vehicle.

117 (8) A ~~[qualifying]~~ qualified taxpayer may not assign a tax credit or a tax credit  
118 certificate under this section to another person.

119 (9) If the ~~[amount of]~~ qualified taxpayer receives a tax credit ~~[claimed by a qualifying~~  
120 taxpayer] certificate under this section that allows a tax credit in an amount that exceeds the

121 ~~[qualifying]~~ qualified taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts  
 122 Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for  
 123 a taxable year, the qualified taxpayer may carry forward the amount of the tax credit  
 124 ~~[exceeding]~~ that exceeds the tax liability ~~[may be carried forward]~~ for a period that does not  
 125 exceed the next five taxable years.

126 (10) (a) In accordance with any rules prescribed by the commission under Subsection  
 127 (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the  
 128 Education Fund the aggregate amount of all tax credits claimed under this section.

129 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 130 commission may make rules for making a transfer from the General Fund into the Education  
 131 Fund as required by Subsection (10)(a).

132 Section 2. Section **59-10-1033** is amended to read:

133 **59-10-1033. Tax credit related to natural gas heavy duty vehicles.**

134 (1) As used in this section:

135 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air  
 136 Conservation Act.

137 (b) "Director" means the director of the Division of Air Quality appointed under  
 138 Section [19-2-107](#).

139 ~~[(b)]~~ (c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according  
 140 to vehicle classifications established by the Federal Highway Administration.

141 ~~[(c)]~~ (d) "Natural gas" includes compressed natural gas and liquified natural gas.

142 ~~[(d)]~~ (e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

143 (i) has never been titled or registered and has been driven less than 7,500 miles; and

144 (ii) is fueled by natural gas~~;~~ ~~and~~.

145 ~~[(iii) meets air quality standards.]~~

146 ~~[(e)]~~ (f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

147 ~~[(f)]~~ (g) "Qualified taxpayer" means a claimant, estate, or trust that:

148 (i) purchases a qualified heavy duty vehicle; and

149 (ii) receives a tax credit certificate from the ~~[board]~~ director.

150 ~~[(g)]~~ (h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and  
 151 owned by a single claimant, estate, or trust.

152           ~~(h)~~ (i) "Tax credit certificate" means a certificate issued by the ~~board~~ director  
153 certifying that a claimant, estate, or trust is entitled to a tax credit as provided in this section  
154 and stating the amount of the tax credit.

155           (2) ~~[For a taxable year beginning on or after January 1, 2015, a]~~ A qualified taxpayer  
156 may claim a nonrefundable tax credit against tax otherwise due under this chapter:

157           (a) in an amount equal to:

158           (i) \$25,000, if the qualified purchase occurs during calendar year 2015, calendar year  
159 2016, or calendar year 2017;

160           (ii) \$20,000, if the qualified purchase occurs during calendar year 2018;

161           (iii) \$18,000, if the qualified purchase occurs during calendar year 2019; and

162           (iv) \$15,000, if the qualified purchase occurs during calendar year 2020; and

163           (b) if the ~~[claimant, estate, or trust]~~ qualified taxpayer certifies under oath that over  
164 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase ~~[or~~  
165 ~~qualified conversion]~~ will travel annually will be within the state.

166           (3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not  
167 submit an application for, and the ~~board~~ director may not issue to the claimant, estate, or  
168 trust, a tax credit certificate under this section in any taxable year for a ~~[qualifying]~~ qualified  
169 purchase if the ~~board~~ director has already issued tax credit certificates to the claimant, estate,  
170 or trust for 10 ~~[tax credits for qualifying]~~ qualified purchases in the same taxable year.

171           (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of  
172 tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit  
173 an application for, and the ~~board~~ director may issue to the claimant, estate, or trust, one or  
174 more tax credit certificates for up to eight additional ~~[qualifying]~~ qualified purchases, even if  
175 the ~~board~~ director has already issued to that claimant, estate, or trust tax credit certificates for  
176 the maximum number of ~~[qualifying]~~ qualified purchases allowed under Subsection (3)(a).

177           (4) (a) Subject to Subsection (4)(b), the ~~board~~ director shall reserve 25% of all tax  
178 credits available under this section for ~~[claimants, estates, or trusts]~~ qualified taxpayers with a  
179 small fleet.

180           (b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an  
181 application for, or the ~~board~~ director from issuing, a tax credit certificate if ~~[the]~~, before  
182 October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax

183 credits for the full amount reserved under Subsection (4)(a) [~~for claimants, estates, or trusts~~  
184 ~~with a small fleet has not been claimed by a date that is 90 days before the end of the year~~].

185 (5) (a) The aggregate annual total amount of tax credits represented by tax credit  
186 certificates that the [board] director issues under this section[~~, when combined with the~~  
187 ~~aggregate annual total amount of tax credits represented by tax credit certificates that the board~~  
188 ~~issues under~~] and Section 59-7-618[;] may not exceed \$500,000.

189 (b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative  
190 Rulemaking Act, make rules to establish a process [~~whereby a taxpayer~~] under which a  
191 claimant, estate, or trust may reserve a potential tax credit under this section for a limited time  
192 to allow the [taxpayer] claimant, estate, or trust to make a [qualifying] qualified purchase with  
193 the assurance that the aggregate limit under Subsection (5)(a) will not be met before the  
194 [taxpayer] claimant, estate, or trust is able to submit an application for a tax credit certificate.

195 (6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section  
196 shall, using forms the board requires by rule:

197 (A) submit to the [board] director an application for a tax credit;

198 (B) provide the [board] director proof of a [qualifying] qualified purchase [~~or~~  
199 ~~qualifying conversion~~]; and

200 (C) submit to the [board] director the certification under oath required under  
201 Subsection (2)(b).

202 (ii) Upon receiving the application, proof, and certification required under Subsection  
203 (6)(a)(i), the [board] director shall provide the claimant, estate, or trust a written statement  
204 from the [board] director acknowledging receipt of the proof.

205 (b) If the [board] director determines that a claimant, estate, or trust qualifies for a tax  
206 credit under this section, the [board] director shall:

207 (i) determine the amount of tax credit the claimant, estate, or trust is allowed under this  
208 section; and

209 (ii) provide the [qualifying taxpayer] claimant, estate, or trust with a written tax credit  
210 certificate:

211 (A) stating that the claimant, estate, or trust has qualified for a tax credit; and

212 (B) showing the amount of tax credit for which the claimant, estate, or trust has  
213 qualified under this section.

214 (c) A ~~[claimant, estate, or trust]~~ qualified taxpayer shall retain the tax credit certificate.

215 (d) The ~~[board]~~ director shall at least annually submit to the commission a list of all  
216 ~~[claimants, estates, and trusts]~~ qualified taxpayers to which the ~~[board]~~ director has issued a tax  
217 credit certificate and the amount of each tax credit represented by the tax credit certificates.

218 (7) The tax credit under this section is allowed only:

219 (a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

220 (b) for the taxable year in which the ~~[qualifying]~~ qualified purchase occurs; and

221 (c) once per vehicle.

222 (8) A ~~[qualifying]~~ qualified taxpayer may not assign a tax credit or a tax credit  
223 certificate under this section to another person.

224 (9) If the ~~[amount of]~~ qualified taxpayer receives a tax credit ~~[claimed by a qualifying~~  
225 ~~taxpayer]~~ certificate under this section that allows a tax credit in an amount that exceeds the  
226 ~~[qualifying]~~ qualified taxpayer's tax liability under this chapter for a taxable year, the qualified  
227 taxpayer may carry forward the amount of the tax credit ~~[exceeding]~~ that exceeds the tax  
228 liability ~~[may be carried forward]~~ for a period that does not exceed the next five taxable years.

229 (10) (a) In accordance with any rules prescribed by the commission under Subsection  
230 (10)(b), the Division of Finance shall transfer at least annually from the General Fund into the  
231 Education Fund the aggregate amount of all tax credits claimed under this section.

232 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
233 commission may make rules for making a transfer from the General Fund into the Education  
234 Fund as required by Subsection (10)(a).

235 Section 3. **Retrospective operation.**

236 This bill has retrospective operation for a taxable year beginning on or after January 1,  
237 2017.

**DUI IMPOUND FEE REFUND AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**Committee Note:**

The Transportation Interim Committee recommended this bill.

**General Description:**

This bill modifies provisions relating to DUI impound fee refunds.

**Highlighted Provisions:**

This bill:

- ▶ modifies the time frame for submission of documents for DUI impound fee refunds.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**41-6a-1406**, as last amended by Laws of Utah 2016, Chapters 100 and 148

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

Section 1. Section **41-6a-1406** is amended to read:

**41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under



28 Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace  
29 officer or by an order of a person acting on behalf of a law enforcement agency or highway  
30 authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the  
31 expense of the owner.

32 (2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or  
33 impounded to:

34 (a) a state impound yard; or

35 (b) if none, a garage, docking area, or other place of safety.

36 (3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be  
37 removed by a tow truck motor carrier that meets standards established:

38 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

39 (b) by the department under Subsection (10).

40 (4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report  
41 of the removal shall be sent to the Motor Vehicle Division by:

42 (i) the peace officer or agency by whom the peace officer is employed; and

43 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck  
44 operator is employed.

45 (b) The report shall be in a form specified by the Motor Vehicle Division and shall  
46 include:

47 (i) the operator's name, if known;

48 (ii) a description of the vehicle, vessel, or outboard motor;

49 (iii) the vehicle identification number or vessel or outboard motor identification  
50 number;

51 (iv) the license number, temporary permit number, or other identification number  
52 issued by a state agency;

53 (v) the date, time, and place of impoundment;

54 (vi) the reason for removal or impoundment;

55 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or  
56 outboard motor; and

57 (viii) the place where the vehicle, vessel, or outboard motor is stored.

58 (c) Until the tow truck operator or tow truck motor carrier reports the removal as

59 required under this Subsection (4), a tow truck motor carrier or impound yard may not:

60 (i) collect any fee associated with the removal; and

61 (ii) begin charging storage fees.

62 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the  
63 Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the  
64 following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

65 (i) the registered owner;

66 (ii) any lien holder; or

67 (iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor  
68 is currently operating under a temporary permit issued by the dealer, as described in Section  
69 41-3-302.

70 (b) The notice shall:

71 (i) state the date, time, and place of removal, the name, if applicable, of the person  
72 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,  
73 and the place where the vehicle, vessel, or outboard motor is stored;

74 (ii) state that the registered owner is responsible for payment of towing, impound, and  
75 storage fees charged against the vehicle, vessel, or outboard motor;

76 (iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard  
77 motor is released; and

78 (iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the  
79 vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or  
80 impoundment under this section, one of the parties fails to make a claim for release of the  
81 vehicle, vessel, or outboard motor.

82 (c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard  
83 motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort  
84 to notify the parties described in Subsection (5)(a) of the removal and the place where the  
85 vehicle, vessel, or outboard motor is stored.

86 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where  
87 the vehicle, vessel, or outboard motor is stored.

88 (e) The Motor Vehicle Division is not required to give notice under this Subsection (5)  
89 if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck



90 service in accordance with Subsection 72-9-603(1)(a)(i).

91 (6) (a) The vehicle, vessel, or outboard motor shall be released after a party described  
92 in Subsection (5)(a):

93 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of  
94 the State Tax Commission;

95 (ii) presents identification sufficient to prove ownership of the impounded vehicle,  
96 vessel, or outboard motor;

97 (iii) completes the registration, if needed, and pays the appropriate fees;

98 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative  
99 impound fee of \$400; and

100 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard  
101 motor is stored.

102 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under  
103 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

104 (ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall  
105 be deposited in the Department of Public Safety Restricted Account created in Section  
106 53-3-106;

107 (iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall  
108 be deposited in the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund; and

109 (iv) the remainder of the administrative impound fee assessed under Subsection  
110 (6)(a)(iv) shall be deposited in the General Fund.

111 (c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be  
112 waived or refunded by the State Tax Commission if the registered owner, lien holder, or  
113 owner's agent presents written evidence to the State Tax Commission that:

114 (i) the Driver License Division determined that the arrested person's driver license  
115 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter  
116 or other report from the Driver License Division presented within ~~[30 days of the final~~  
117 ~~notification from]~~ 180 days after the day on which the Driver License Division mailed the final  
118 notification; or

119 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the  
120 stolen vehicle report presented within ~~[30 days]~~ 180 days after the day of the impoundment.

121 (d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept  
122 payment by cash and debit or credit card for a removal or impoundment under Subsection (1)  
123 or any service rendered, performed, or supplied in connection with a removal or impoundment  
124 under Subsection (1).

125 (e) The owner of an impounded vehicle may not be charged a fee for the storage of the  
126 impounded vehicle, vessel, or outboard motor if:

127 (i) the vehicle, vessel, or outboard motor is being held as evidence; and

128 (ii) the vehicle, vessel, or outboard motor is not being released to a party described in  
129 Subsection 5(a), even if the party satisfies the requirements to release the vehicle, vessel, or  
130 outboard motor under this Subsection (6).

131 (7) (a) An impounded vehicle, vessel, or outboard motor not claimed by a party  
132 described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103 shall be sold  
133 in accordance with that section and the proceeds, if any, shall be disposed of as provided under  
134 Section 41-1a-1104.

135 (b) The date of impoundment is considered the date of seizure for computing the time  
136 period provided under Section 41-1a-1103.

137 (8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the  
138 impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the  
139 fees and charges, together with damages, court costs, and attorney fees, against the operator of  
140 the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

141 (9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,  
142 or outboard motor.

143 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
144 the department shall make rules setting the performance standards for towing companies to be  
145 used by the department.

146 (11) (a) The Motor Vehicle Division may specify that a report required under  
147 Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and  
148 retrieval of the information.

149 (b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the  
150 administrator of the database may adopt a schedule of fees assessed for utilizing the database.

151 (ii) The fees under this Subsection (11)(b) shall:

- 152           (A) be reasonable and fair; and  
153           (B) reflect the cost of administering the database.
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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**