



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Utah State Tax Commission

JOHN L. VALENTINE
Commission Chair

MICHAEL J. CRAGUN
Commissioner

REBECCA L. ROCKWELL
Commissioner

LAWRENCE C. WALTERS
Commissioner

SCOTT W. SMITH
Executive Director

2019 NOTICE OF SCHEDULED MEETINGS

The Utah State Tax Commission will convene in an open public meeting on the following dates at the listed time:

9:00 a.m., Thursday, January 10, 2019
9:00 a.m., Thursday, January 24, 2019
9:00 a.m., Thursday, February 14, 2019
9:00 a.m., Thursday, February 28, 2019
9:00 a.m., Thursday, March 14, 2019
9:00 a.m., Thursday, March 28, 2019
9:00 a.m., Thursday, April 11, 2019
9:00 a.m., Thursday, April 25, 2019
9:00 a.m., Thursday, May 9, 2019
9:00 a.m., Thursday, May 23, 2019
9:00 a.m., Thursday, June 13, 2019
9:00 a.m., Thursday, June 27, 2019
9:00 a.m., Thursday, July 11, 2019
9:00 a.m., Thursday, July 25, 2019
9:00 a.m., Thursday, August 8, 2019
9:00 a.m., Thursday, August 22, 2019
9:00 a.m., Thursday, September 12, 2019
9:00 a.m., Thursday, September 26, 2019
9:00 a.m., Thursday, October 10, 2019
9:00 a.m., Thursday, October 24, 2019
9:00 a.m., Thursday, November 14, 2019
9:00 a.m., Thursday, November 28, 2019 (Thanksgiving – no meeting)
9:00 a.m., Thursday, December 12, 2019
9:00 a.m., Thursday, December 26, 2019

Tax Commission Rule Review Checklist
(This Sheet and any backup data must accompany each proposed rule or revision)

Title of Rule: **Sales and Use Tax Exemptions for Certain Purchases by a Manufacturing Facility**
Statutory Reference: **§59-12-104**
Rule Number: **R865-19S-85**

4. Purpose of the rule or reason for the change:

To reflect statutory changes to the manufacturing sales and use tax exemption pursuant to 2018 SB 2001.

6. Summary of the rule change:

The proposed amendment adds “parts and materials” to definition of “machinery and equipment” that qualifies for the manufacturing sales and use tax exemption.

7. Aggregate anticipated cost or savings to:

A) State Budget:

This proposed amendment is not expected to have any fiscal impacts on state government revenues or expenditures because any fiscal impacts would have been addressed in the fiscal note of 2018 SB 2001.

B) Local Government:

This proposed amendment is not expected to have any fiscal impacts on local government revenues or expenditures because any fiscal impacts would have been addressed in the fiscal note of 2018 SB 2001.

C) Small Businesses (50 or less employees):

This proposed amendment is not expected to have any fiscal impacts on small business revenues or expenditures because any fiscal impacts would have been addressed in the fiscal note of 2018 SB 2001.

D) Persons other than small businesses or local government:

This proposed amendment is not expected to have any fiscal impacts on non-small businesses revenues or expenditures because any fiscal impacts would have been addressed in the fiscal note of 2018 SB 2001.

8. Compliance cost for affected persons ("person" means any individual, partnership, corporation, association, government entity, public or private organization of any character other than an agency):
The proposed amendment adds “parts and materials” to definition of “machinery and equipment” that qualifies for the manufacturing sales and use tax exemption. This proposed amendment is not expected to impose any compliance costs on affected persons because any regulatory burdens would have been addressed in the fiscal note of 2018 SB 2001.

9. Comments by the department head on the fiscal impact the rule may have on businesses:

The fiscal impact the rule may have on businesses would have been addressed in the fiscal note of 2018 SB 2001.

14. Indexing information: _____

Substantive: Yes

Nonsubstantive:

Result of 5 year review: No

Originated by:
2018 SB 2001

Drafted by:
Jason Gardner

Reviewed with Divisions:

Date:

Approved by Executive Director:

Date:

Approved for Submittal to DAR:

Date:

Tax Commission Rule Review Checklist

(This Sheet and any backup data must accompany each proposed rule or revision)

Title of Rule: **Sales and Use Tax Exemptions for Certain Purchases by a Mining Facility**
Statutory Reference: **§59-12-104**
Rule Number: **R865-19S-121**

4. Purpose of the rule or reason for the change:
To reflect statutory changes pursuant to 2018 SB 2001.

6. Summary of the rule change:
The proposed amendment eliminates reference to machinery and equipment having an economic life of three or more years and clarifies that “parts and materials” are treated the same as machinery and equipment for purposes of the exemption from sales and use tax.

7. Aggregate anticipated cost or savings to:

A) State Budget:

This proposed amendment is not expected to have any fiscal impacts on state government revenues or expenditures because any fiscal impacts would have been addressed in the fiscal note of 2018 SB 2001.

B) Local Government:

This proposed amendment is not expected to have any fiscal impacts on local government revenues or expenditures because any fiscal impacts would have been addressed in the fiscal note of 2018 SB 2001.

C) Small Businesses (50 or less employees):

This proposed amendment is not expected to have any fiscal impacts on small business revenues or expenditures because any fiscal impacts would have been addressed in the fiscal note of 2018 SB 2001.

D) Persons other than small businesses or local government:

This proposed amendment is not expected to have any fiscal impacts on non-small businesses revenues or expenditures because any fiscal impacts would have been addressed in the fiscal note of 2018 SB 2001.

8. Compliance cost for affected persons ("person" means any individual, partnership, corporation, association, government entity, public or private organization of any character other than an agency):
The proposed amendment eliminates reference to machinery and equipment having an economic life of three or more years and clarifies that “parts and materials” are treated the same as machinery and equipment for purposes of the exemption from sales and use tax. This proposed amendment is not expected to impose any compliance costs on affected persons because any regulatory burdens would have been addressed in the fiscal note of 2018 SB 2001.

9. Comments by the department head on the fiscal impact the rule may have on businesses:
The fiscal impact the rule may have on businesses would have been addressed in the fiscal note of 2018 SB 2001.

14. Indexing information: _____

Substantive: Yes

Nonsubstantive:

Result of 5 year review: No

Originated by:
2018 SB 2001

Drafted by:
Jason Gardner

Reviewed with Divisions:

Date:

Approved by Executive Director:

Date:

Approved for Submittal to DAR:

Date:

Tax Commission Rule Review Checklist

(This Sheet and any backup data must accompany each proposed rule or revision)

Title of Rule: **Sales and Use Tax Exemptions for Certain Purchases by a Web Search Portal Establishment**

Statutory Reference: **§59-12-104**

Rule Number: **R865-19S-122**

4. Purpose of the rule or reason for the change:
To reflect statutory changes pursuant to 2018 SB 2001.

6. Summary of the rule change:
The proposed amendment eliminates reference to machinery and equipment having an economic life of three or more years and clarifies that “parts and materials” are treated the same as machinery and equipment for purposes of the exemption from sales and use tax.

7. Aggregate anticipated cost or savings to:

A) State Budget:

This proposed amendment is not expected to have any fiscal impacts on state government revenues or expenditures because any fiscal impacts would have been addressed in the fiscal note of 2018 SB 2001.

B) Local Government:

This proposed amendment is not expected to have any fiscal impacts on local government revenues or expenditures because any fiscal impacts would have been addressed in the fiscal note of 2018 SB 2001.

C) Small Businesses (50 or less employees):

This proposed amendment is not expected to have any fiscal impacts on small business revenues or expenditures because any fiscal impacts would have been addressed in the fiscal note of 2018 SB 2001.

D) Persons other than small businesses or local government:

This proposed amendment is not expected to have any fiscal impacts on non-small businesses revenues or expenditures because any fiscal impacts would have been addressed in the fiscal note of 2018 SB 2001.

8. Compliance cost for affected persons ("person" means any individual, partnership, corporation, association, government entity, public or private organization of any character other than an agency):
The proposed amendment eliminates reference to machinery and equipment having an economic life of three or more years and clarifies that “parts and materials” are treated the same as machinery and equipment for purposes of the exemption from sales and use tax. This proposed amendment is not expected to impose any compliance costs on affected persons because any regulatory burdens would have been addressed in the fiscal note of 2018 SB 2001.

9. Comments by the department head on the fiscal impact the rule may have on businesses:
The fiscal impact the rule may have on businesses would have been addressed in the fiscal note of 2018 SB 2001.

14. Indexing information: _____

Substantive: Yes

Nonsubstantive:

Result of 5 year review: No

Originated by:
2018 SB 2001

Drafted by:
Jason Gardner

Reviewed with Divisions:

Date:

Approved by Executive Director:

Date:

Approved for Submittal to DAR:

Date:

Tax Commission Rule Review Checklist

(This Sheet and any backup data must accompany each proposed rule or revision)

Title of Rule: **2019 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act**

Statutory Reference: **59-2-515**

Rule Number: **R884-24P-53**

4. Purpose of the rule or reason for the change:

This amendment annually updates the agricultural productive values to be applied by county assessors to land qualifying for valuation and assessment under the Farmland Assessment Act. The values are recommended to the Commission by the State Farmland Evaluation Advisory Committee, which meets under the authority of Section 59-2-514.

6. Summary of the rule change:

Section 59-2-515 authorizes the State Tax Commission to promulgate rules regarding the Property Tax Act, Part 5, Farmland Assessment Act. Section 59-2-514 authorizes the State Tax Commission to receive valuation recommendations from the State Farmland Advisory Committee for implementation as outlined in R884-24P-53. The rule sets the acreage value rates for 418 separate class-county combinations.

This year it is proposed that 286 rates increase slightly and 132 have no change.

7. Aggregate anticipated cost or savings to:

A) State Budget: The amount of savings or cost to state government is undetermined. The State receives tax revenue for assessing and collecting and for the Education Fund based on increased or decreased real and personal property valuation, including property assessed under the Farmland Assessment Act (FAA). Property valuation (taxable value) changes have been recommended by class and by county. This year it is proposed that one rate increase slightly, 356 rates decrease and 61 have no change. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. However, it is estimated that the overall change is minimal due to this amendment.

B) Local Government: The amount of savings or cost to local government is undetermined. Local governmental entities receive tax revenue based on increased or decreased property valuation, including property assessed under FAA. Property valuation changes have been recommended by class and by county. This year it is proposed that one rate increase slightly, 356 rates decrease and 61 have no change. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. However, it is estimated that the overall change is minimal due to this amendment. County assessors' offices statewide will be required to input the new value indicators into their computer systems to be applied against the acreage for individual properties. This input process is easily accomplished on an annual basis and represents no significant cost in time or money to the assessors' offices.

C) Small Businesses (50 or less employees): The amount of savings or cost to small businesses is

undetermined. Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on the property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

D) Persons other than small businesses or local government: The amount of savings or cost to non-small businesses is undetermined. Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on the property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

8. Compliance cost for affected persons ("person" means any individual, partnership, corporation, association, government entity, public or private organization of any character other than an agency): Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on the property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

9. Comments by the department head on the fiscal impact the rule may have on businesses: These changes may affect property values that may result in a change of property tax amounts due.

14. Indexing information:

Substantive: Yes

Nonsubstantive:

Result of 5 year review: No

Originated by:

Date: 9/20/2018

Property Tax

Drafted by:

Date: 9/25/2018

Jason Gardner

Reviewed with Division:

Date:

Approved by Executive Director:

Date:

Approved for Submittal to DAR:

Date:

R884-24P-19. Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702.

(1) "State certified general appraiser," "state certified residential appraiser," "state licensed appraiser," and trainee are as defined in Section 61-2b-2.

(2) The ad valorem training and designation program consists of several courses and practica.

(a) Certain courses must be sanctioned by either the Appraiser Qualification Board of the Appraisal Foundation (AQB) or the Western States Association of Tax Administrators (WSATA).

(b) The courses comprising the basic designation program are:

(i) Course 101 - Basic Appraisal Principles;

(ii) Course 103 - Uniform Standards of Professional Appraisal Practice (AQB);

(iii) Course 501 - Assessment Practice in Utah;

(iv) Course 502 - Mass Appraisal of Land;

(v) Course 503 - Development and Use of Personal Property Schedules;

(vi) Course 504 - Appraisal of Public Utilities and Railroads (WSATA); and

(vii) Course 505 - Income Approach Application.

(3) Candidates must attend 90 percent of the classes in each course and pass the final examination for each course with a grade of 70 percent or more to be successful.

(4) There are four recognized ad valorem designations: ad valorem residential appraiser, ad valorem general real property appraiser, ad valorem personal property auditor/appraiser, and ad valorem centrally assessed valuation analyst.

(a) These designations are granted only to individuals employed in a county assessor office or the Property Tax Division, working as appraisers, review appraisers, valuation auditors, or analysts/administrators providing oversight and direction to appraisers and auditors.

(b) An assessor, county employee, or state employee must hold the appropriate designation to value property for ad valorem taxation purposes.

(5) Ad valorem residential appraiser.

(a) To qualify for this designation, an individual must:

(i) successfully complete courses 501 and 502;

(ii) successfully complete a comprehensive residential field practicum; and

(iii) attain and maintain state licensed or state certified appraiser status.

(b) Upon designation, the appraiser may value residential, vacant, and agricultural property for ad valorem taxation purposes.

(6) Ad valorem general real property appraiser.

(a) In order to qualify for this designation, an individual must:

(i) successfully complete courses 501, 502, and 505;

(ii) successfully complete a comprehensive field practicum including residential and commercial properties; and

(iii) attain and maintain state certified appraiser status.

41 (b) Upon designation, the appraiser may value all types of locally assessed real property
42 for ad valorem taxation purposes.

43 (7) Ad valorem personal property auditor/appraiser.

44 (a) For an individual commencing employment as an ad valorem personal property
45 auditor/appraiser before April 15, 2019 to qualify for this designation, an individual must, by
46 April 15, 2021:

47 (i) successfully complete courses 101, 103, 501, and 503; and

48 (ii) successfully complete a comprehensive auditing practicum.

49 (b) For an individual commencing employment as an ad valorem personal property
50 auditor/appraiser on or after April 15, 2019 [Tø]to qualify for this designation, an individual
51 must within 24 months of commencing that employment:

52 (i) successfully complete courses 101, 103, 501, and 503; and

53 (ii) successfully complete a comprehensive auditing practicum.

54 ~~[(b)]~~(c) Upon designation, the auditor/appraiser may value locally assessed personal
55 property for ad valorem taxation purposes.

56 (8) Ad valorem centrally assessed valuation analyst.

57 (a) In order to qualify for this designation, an individual must:

58 (i) successfully complete courses 501 and 504;

59 (ii) successfully complete a comprehensive valuation practicum; and

60 (iii) attain and maintain state licensed or state certified appraiser status.

61 (b) Upon designation, the analyst may value centrally assessed property for ad valorem
62 taxation purposes.

63 (9) If a candidate fails to receive a passing grade on a final examination, two re-
64 examinations are allowed. If the re-examinations are not successful, the individual must retake
65 the failed course. The cost to retake the failed course will not be borne by the Tax Commission.

66 (10) A practicum involves the appraisal or audit of selected properties. The candidate's
67 supervisor must formally request that the Property Tax Division administer a practicum.

68 (a) Emphasis is placed on those types of properties the candidate will most likely
69 encounter on the job.

70 (b) The practicum will be administered by a designated appraiser assigned from the
71 Property Tax Division.

72 (11) An appraiser trainee referred to in Section 59-2-701 shall be designated an ad
73 valorem associate if the appraiser trainee:

74 (a) has completed all education and practicum requirements for designation under
75 Subsections (5), (6), or (8); and

76 (b) has not completed the non-education requirements for licensure or certification under
77 Title 61, Chapter 2b, Real Estate Appraiser Licensing and Certification.

78 (12) An individual holding a specified designation can qualify for other designations by
79 meeting the additional requirements under Subsections (5), (6), (7), or (8).

80 (13)(a) Maintaining designated status for individuals designated under Subsection (7)
81 requires completion of [14]6 hours of Tax Commission approved classroom work every two
82 years.

83 (b) Maintaining designated status for individuals designated under Subsections (5), (6),
84 and (8) requires maintaining their appraisal license or certification under Title 61, Chapter 2b,
85 Real Estate Appraiser Licensing and Certification.

86 (14) Upon termination of employment from any Utah assessment jurisdiction, or if the
87 individual no longer works primarily as an appraiser, review appraiser, valuation auditor, or
88 analyst/administrator in appraisal matters, designation is automatically revoked.

89 (a) Ad valorem designation status may be reinstated if the individual secures
90 employment in any Utah assessment jurisdiction within four years from the prior termination.

91 (b) If more than four years elapse between termination and rehire, and:

92 (i) the individual has been employed in a closely allied field, then the individual may
93 challenge the course examinations. Upon successfully challenging all required course
94 examinations, the prior designation status will be reinstated; or

95 (ii) if the individual has not been employed in real estate valuation or a closely allied
96 field, the individual must retake all required courses and pass the final examinations with a score
97 of 70 percent or more.

98 (15) All appraisal work performed by Tax Commission designated appraisers shall meet
99 the standards set forth in section 61-2b-27.

100 (16) If appropriate Tax Commission designations are not held by assessor's office
101 personnel, the appraisal work must be contracted out to qualified private appraisers. An
102 assessor's office may elect to contract out appraisal work to qualified private appraisers even if
103 personnel with the appropriate designation are available in the office. If appraisal work is
104 contracted out, the following requirements must be met:

105 (a) The private sector appraisers performing the contracted work must hold the state
106 certified residential appraiser or state certified general appraiser license issued by the Division of
107 Real Estate of the Utah Department of Commerce. Only state certified general appraisers may
108 appraise nonresidential properties.

109 (b) All appraisal work shall meet the standards set forth in Section 61-2b-27.

110 (17) The completion and delivery of the assessment roll required under Section 59-2-311
111 is an administrative function of the elected assessor.

112 (a) There are no specific licensure, certification, or educational requirements related to
113 this function.

114 (b) An elected assessor may complete and deliver the assessment roll as long as the
115 valuations and appraisals included in the assessment roll were completed by persons having the
116 required designations.

R884-24P-74. Changes to Jurisdiction of Mining Claims Pursuant to Utah Code Ann. Section 59-2-201.

(1) A mining claim shall be assessed by the county in which the mining claim is located if the commission determines that the mining claim is used for other than mining purposes.

(2) The owner of a mining claim may request that the mining claim be assessed by the county in which the mining claim is located by providing the following to the commission:

(a) a copy of the title to the mining claim;

(b) certification that all owners of the mining claim seek assessment by the county in which the mining claim is located;

(c) a valid metes and bounds legal description of the mining claim approved by the county recorder where the mining claim is located; and

(d) evidence that the mining claim is used for other than mining purposes.

(3) A county may request that a mining claim be assessed by the county in which the mining claim is located by providing the following to the commission:

(a) a valid metes and bounds legal description of the mining claim approved by the county recorder where the mining claim is located; and

(b) evidence that the mining claim is used for other than mining purposes.

(4) Evidence that a mining claim is used for other than mining purposes is dependent on specific facts and circumstances and includes:

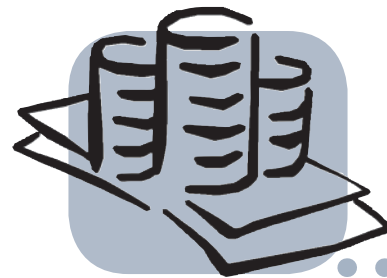
(a) evidence that the mining claim will be actively and solely used for other than mining purposes for more than a temporary period of time;

(b) evidence that a restrictive covenant or conservation easement prohibiting mining activities on the mining claim is recorded in the county where the mining claim is located;

(c) evidence that local zoning ordinances prohibit mining activities on the mining claim;
or

(d) in the case where the mining claim has been used for mining activities at any time, the mining claim has been reclaimed as evidenced by the return of the mine reclamation bond to the owner of the mining claim by the Division of Oil, Gas, and Mining.

Utah Interest and Penalties



Utah State Tax Commission

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If you need an accommodation under the Americans with Disabilities Act, email taxada@utah.gov, or call 801-297-3811 or TDD 801-297-2020. Please allow three working days for a response.

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Introduction

This publication explains how the Utah State Tax Commission assesses penalties and interest.

See Utah Code §§59-1-401 and 402 for more information.

Exceptions

The following taxes and fees are not subject to the penalty and interest calculations explained in this publication:

- **Title 41, Chapter 1a – Motor Vehicle Act** (except for §41-1a-301 dealing with fees related to the apportioned registration and licensing of interstate commercial vehicles);
- **Title 41, Chapter 3 – Motor Vehicle Business Regulation;**
- **Title 59, Chapter 2 – Property Tax Act** (except for §59-2-1309 dealing with fees related to the redemption of certain centrally assessed property seized by the Commission);
- **Title 59, Chapter 3 – Tax Equivalent Property Act;** and
- **Title 59, Chapter 4 – Privilege Tax.**

Interest

Unless otherwise provided by law, the basis of the interest rate for a calendar year is the federal short-term rate (see Internal Revenue Code 6621) for the fourth quarter of the preceding year.

The calendar year simple interest rate for taxes and fees administered by the Tax Commission is two percentage points above the federal short-term rate. We use this rate to calculate interest for overpayments, refunds, underpayments, deficiencies and delinquencies.

You can use our online Penalty and Interest Calculator to compute penalty and interest due on current-year individual income tax returns. See the calculator at tax.utah.gov/billing/penalties-interest.

Interest Rates

The interest rates on taxes and fees are:

Period	Percentage Rate
Jan. 1, 2019 – Dec. 31, 2019	4%
Jan. 1, 2017 – Dec. 31, 2018.....	3%
Jan. 1, 2012 – Dec. 31, 2016	2%
Jan. 1, 2010 – Dec. 31, 2011	3%
Jan. 1, 2009 – Dec. 31, 2009	5%
Jan. 1, 2007 – Dec. 31, 2008	7%
Jan. 1, 2006 – Dec. 31, 2006	6%
Jan. 1, 2005 – Dec. 31, 2005	4%
Jan. 1, 2004 – Dec. 31, 2004	3%
Jan. 1, 2003 – Dec. 31, 2003	5%
Jan. 1, 2002 – Dec. 31, 2002	6%
Jan. 1, 2001 – Dec. 31, 2001	8%
Jan. 1, 1999 – Dec. 31, 2000	7%
Jan. 1, 1995 – Dec. 31, 1998	8%
Oct. 12, 1993 – Dec. 31, 1994	6%
Prior to Oct. 12, 1993.....	12%

IFTA: The interest rate for late payments on IFTA accounts is set by rules and regulations of the International Fuel Tax Agreement. The current interest rate for late payments is 12 percent annually, or one percent per month.

Overpayments

Generally, we will not pay interest on an overpayment of a tax, fee or charge if we refund it within 90 days after the later of:

- the date the return is due,
- the date the return is filed, or
- the date of the overpayment.

We will calculate interest starting on the 91st day from the later of the dates listed above.

If the overpayment is for an electronically filed individual, corporation or partnership return, we will not pay interest if we refund it within 45 days after the later of the above dates.

We will calculate interest starting on the 46th day.

Amended Returns

If an amended return results in an overpayment, interest will accrue until the date we receive the amended return or request, beginning on the later of:

- the date the original return was filed, or
- the due date (not including any extensions) for filing the original return.

If we do not refund the overpayment within 90 days after the date we receive the amended return, interest will resume starting on the 91st day after we receive the amended return until the date we issue the refund.

If the overpayment is for an electronically filed amended individual, corporation or partnership return, interest will not be allowed if we refund the overpayment within 45 days after we receive the amended return. Interest will resume starting on the 46th day after we receive the amended return.

Interest will stop accruing on a Utah amended return overpayment that results from an IRS change or correction if you do not file it within 90 days after the conclusion of the audit (see Utah Code §59-10-529(12)(b)).

Interest will not be paid on refunds arising from a judicial decision that declares a statute to be invalid or unconstitutional under federal or Utah state law.

Underpayments

Interest is assessed on any underpayment, deficiency, or delinquency of taxes and fees administered by the Tax Commission from the date the original return was due to the date we receive the full payment.

Application of Payment

We apply delinquent tax payments in the following order:

1. Collection fees (if applicable, unless otherwise required by law)
2. Outstanding penalties
3. Accrued interest
4. Outstanding tax due for the period in question

If you have outstanding liabilities for more than one tax period, we will apply a payment to the oldest period first, unless you request otherwise.

See Tax Commission Rule R861-1A-18.

Calculation Guidelines

If an underpayment or overpayment spans more than one interest-rate period, interest is calculated based on the rate in effect for each interest-rate period. Interest for each interest-rate period is calculated for the number of days in the period, divided by 365. The calculation is rounded to two decimal places.

Interest Calculation Formula

$(\text{underpayment}) \times (\text{interest rate}) \times (\text{number of days}) / 365$

Example: Interest on a tax return due Sept. 30, 2011 and paid on Feb. 15, 2014 with a tax-due balance of \$1,500 would be:

Period	Days	Rate	Interest
09/30/2011 – 12/31/2011 (\$1,500 x .03 x 92/365)	92	3%	\$11.34
01/01/2012 – 02/15/2014 (\$1,500 x .02 x 776/365)	776	2%	\$63.78
Total interest due			\$75.12

Penalties

Utah Code §59-1-401 provides penalties for failure to:

1. file tax returns (late filing penalty),
2. pay tax due on returns and audit assessments (late payment penalty), and
3. file information returns or supporting schedules.

Some tax types are subject to additional penalties. See tax.utah.gov/utah-taxes for more information.

Note: IFTA is subject to all the late filing and late payment penalties listed below, but the penalty is the greater of \$50 or 10 percent and does not increase with the number of days late.

Late Filing Penalty

We may assess a late filing penalty for returns either not filed or filed after the due date (with extension, if applicable).

The penalty does not apply to amended returns.

The penalty amount increases based on the number of days late:

<u>Days Late</u>	<u>Penalty</u>
1-5	Greater of \$20 or 2% of unpaid tax, fee or charge
6-15	Greater of \$20 or 5% of unpaid tax, fee or charge
16 or more	Greater of \$20 or 10% of unpaid tax, fee or charge

Any return required to be filed electronically is subject to the late filing penalty if filed on paper.

Also see *Employer Withholding Reconciliation Penalty*, below.

Late Payment Penalty

We may assess a late payment penalty for payments you make after the due date.

The penalty does not apply for a return with no tax due.

To avoid a late payment penalty you must pay all tax due before the return due date, or pay all tax, interest and penalties:

1. within 90 days of the due date with a late filed return,
2. on the same day an amended return is filed, or
3. within 30 days of an audit assessment. See number 5 under *Penalty Detail*, below.

Penalty Detail

The late payment penalties are as follows:

1. **Return filed by due date but underpaid; or extension return filed but tax underpaid on original due date:**

<u>Days Late</u>	<u>Penalty</u>
1-5	Greater of \$20 or 2% of unpaid tax, fee or charge
6-15	Greater of \$20 or 5% of unpaid tax, fee or charge
16 or more	Greater of \$20 or 10% of unpaid tax, fee or charge

2. **Return filed after due date and not paid in full within 90 days of due date:**

<u>Days Late</u>	<u>Penalty</u>
91-95	Greater of \$20 or 2% of unpaid tax, fee or charge
96-105	Greater of \$20 or 5% of unpaid tax, fee or charge
106 or more	Greater of \$20 or 10% of unpaid tax, fee or charge

3. **Failure to pay when return not filed:**

Penalty

Greater of \$20 or 10% of unpaid tax, fee or charge

4. **Amended return filed after original return due date (with extension) and not paid in full with amended return:**

<u>Days Late</u>	<u>Penalty</u>
1-5*	Greater of \$20 or 2% of unpaid tax, fee or charge
6-15*	Greater of \$20 or 5% of unpaid tax, fee or charge
16 or more*	Greater of \$20 or 10% of unpaid tax, fee or charge

* days late after original due date

5. **Audit deficiency not paid in full within 30 days of deficiency notice, final commission order of final judicial order:**

<u>Days Late</u>	<u>Penalty</u>
31-35	Greater of \$20 or 2% of unpaid tax, fee or charge
36-45	Greater of \$20 or 5% of unpaid tax, fee or charge
46 or more	Greater of \$20 or 10% of unpaid tax, fee or charge

Insufficient Prepayment (Extension Penalty)

Individuals, fiduciaries and corporations have an automatic six-month extension to file a tax return. Partnerships have an automatic five-month extension to file a return. These extensions do NOT apply to the payment of tax due on a return. Payments are due in full on the original due date of the return.

Your total prepayments (withholding, payments applied from previous year refunds, nonrefundable credit carryovers, other nonrefundable and refundable credits, and prepayments previously made) must equal either:

- 90 percent of the current year's tax liability, or
- 100 percent of the previous year's tax liability.

We will assess a penalty for **insufficient prepayment** if your prepayments do not meet the above criteria. The penalty is 2 percent per month, calculated on a daily basis, until the date the return is filed or the extension expires.

The formula for calculating the penalty for an individual, fiduciary or corporation is:

$(\text{underpayment}) \times .24^* \times (\text{number of days outstanding}) / 365$

* 2 percent rate per month up to a maximum of six months, or 12 percent (annual 24 percent)

The formula for calculating the penalty for a partnership is:

$(\text{underpayment}) \times .24^* \times (\text{number of days outstanding}) / 365$

* 2 percent rate per month up to a maximum of five months, or 10 percent (annual 24 percent)

Also note:

- The extension to file does not cancel the requirement to pay by the due date. We will assess the late payment penalty and interest on any unpaid tax from the original due date of the return, not including the extension period, until the date the tax is paid.
- If you use an extension to file, pay any extension penalty and interest due with the return.

- You do not need to prepay an individual or fiduciary income tax return if you filed a return the previous year and the tax was zero. If you did NOT file a return the previous year, you must prepay 90 percent of the current year's tax liability.
- Corporations subject to the minimum tax must pay the required \$100 minimum tax (per corporation in a combined group) even if there was no previous year return.
- If you do not file a return by the extension due date, failure to pay AND failure to file penalties will apply, as if the extension had not been granted. The insufficient prepayment penalty will then not apply.

Underpayment Penalties

Certain entities (see below) must make quarterly tax prepayments. **Failure to make sufficient quarterly prepayments may result in an underpayment penalty.**

The penalty rate for insufficient quarterly prepayments is the interest rate provided in Utah Code §59-1-402 plus 4 percent for the length of the underpayment. The penalty is calculated against the amount underpaid for a quarter, multiplied for the number of days underpaid in that quarter and divided by 365.

Because payments are first applied to any previous underpayments, a full current-quarter payment could still result in an underpayment penalty if past underpayments for the year remain unresolved.

Corporation Tax Quarterly Payments

A corporation must make quarterly estimated tax payments if either its current or previous tax year's tax liability was \$3,000 or more. This rule also applies to parent corporations filing combined reports when the total tax due is \$3,000 or more for all corporations in the combined report (including those paying only the minimum tax).

A corporation does not need to make estimated tax payments the first year it files in Utah if it pays the minimum tax on or before the due date (without extensions).

Quarterly estimated payments are due on the 15th day of the 4th, 6th, 9th and 12th months of the corporation's taxable year. The prepayments must total the lesser of 90 percent of the current year's tax liability or 100 percent of the prior year's tax liability.

Unless a corporation qualifies for federal annualized or seasonal installments, quarterly estimated tax is due in four equal payments.

See the TC-20, corporation tax return booklet for more information.

Insurance Tax Quarterly Payments

Admitted insurers and self insurers must make quarterly prepayments if their prior year's tax was more than \$10,000.

Prepayments must be at least the lesser of 27 percent of the prior year's tax or the current year's estimated quarterly premiums.

Prepayments are due on the last day of April, July and October. The final payment is due March 31 with the return.

Oil, Gas and Mining Severance Tax Quarterly Payments

Companies subject to the oil and gas severance tax or the mining severance tax must make estimated tax payments if their tax liability for the current year is \$3,000 or more.

Quarterly estimated tax payments are based on the estimated gross value the taxpayer receives during the quarter preceding the date on which the installment is due. Quarterly installments are due:

- on or before June 1 for the quarter beginning January 1 and ending March 31,
- on or before September 1 for the quarter beginning April 1 and ending June 30,
- on or before December 1 for the quarter beginning July 1 and ending September 30, and
- on or before March 1 (of the next year) for the quarter beginning October 1 and ending on December 31.

Quarterly payments must equal at least the lesser of 80 percent of the tax due for the quarter or 25 percent of the preceding year's tax liability.

Employer and Mineral Production Withholding Reconciliation Penalties

Employers and mineral producers must file an electronic annual reconciliation of their withholding tax. See tax.utah.gov for more information.

We will assess penalties for failure to file an annual reconciliation electronically, accurately and completely by January 31 after the year wages were paid (see Utah Code §§59-1-401(8) and 59-1-401(13)).

The penalties are the greater of:

- \$50 for a TC-941R filed more than 14 days late; **or**
- \$30 for each W-2, 1099R and TC-675R filed between 15 and 30 days late (up to \$75,000);
- \$60 for each W-2, 1099R and TC-675R filed between 31 days late and June 1 (up to \$200,000); and
- \$100 for each W-2, 1099R and TC-675R filed after June 1 (up to \$500,000).

Other Penalties and Fines

Utah Code provides additional penalties in the following circumstances:

- If tax is underpaid due to negligence, the penalty is 10 percent of the underpayment.
- If tax is underpaid due to intentional disregard of law or rule, the penalty is 15 percent of the underpayment.
- If tax is underpaid with intent to evade the tax, the penalty is the greater of \$500 per period or 50 percent of the tax due.
- If tax is underpaid due to fraud with intent to evade the tax, the penalty is the greater of \$500 per period or 100 percent of the underpayment.
- If you fail to file an information return or a complete supporting schedule, the penalty is \$50 for each return or schedule up to a maximum of \$1,000.
- If you, in furtherance of a frivolous position, have a prima facie intent to delay or impede administration of the tax law and file a return lacking information that can be used to determine the correctness of the reported tax liability or that clearly indicates the reported tax liability must be substantially incorrect, the penalty is \$500.

- If you are required to collect, truthfully account for and pay any Utah trust tax (state, local and related sales and use tax; municipal energy tax; municipal telecommunications tax; motor fuel, clean fuel, special fuel and aviation fuel tax; and withholding tax) and you willfully fail to do so, or if you try to evade or defeat the tax or payment of the tax, you will be subject to a penalty equal to the total amount of the unpaid tax. This penalty is in addition to other penalties provided by law.
- If you owe any tax, fee or charge, it is a third degree felony to knowingly and intentionally, and without a reasonable good-faith basis, fail to file, sign or verify a return within the time required by law; or to supply any information within the time required by law; or to file, sign or verify a false or fraudulent return or statement; or to provide any false or fraudulent information. You may be fined between \$1,000 and \$5,000.
- In addition to other penalties provided by law, it is a second degree felony to intentionally or willfully try to evade or defeat any tax or the payment of a tax. You may be fined between \$1,500 and \$25,000.

Preparer Penalties

A person who prepares, presents, procures, advises, aids, assists or counsels another on a return, affidavit, claim or other Tax Commission document, 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 from \$1,500 to \$25,000). See Utah Code §59-1-401(11).

Waivers

We may waive, reduce or compromise any penalties or interest, based on reasonable cause. See Utah Code §59-1-401(13).

For more information about waiver procedures and reasonable cause, see Tax Commission Pub 17.