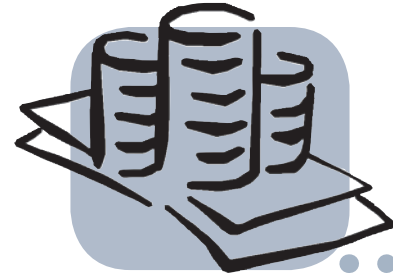


Utah Interest and Penalties



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:

| <u>Period</u> | <u>Percentage Rate</u> |
|-------------------------------------|------------------------|
| Jan. 1, 2019 – Dec. 31, 2020 | 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% |

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:

| <u>Period</u> | <u>Days</u> | <u>Rate</u> | <u>Interest</u> |
|--|-------------|-------------|-----------------|
| 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.

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:

- within 90 days of the due date with a late filed return,
- on the same day an amended return is filed, or
- 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.

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:

| <u>Period</u> | <u>Percentage Rate</u> |
|---|------------------------|
| Jan. 1, 2019 – Dec. 31, 2019 2020..... | 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% |

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:

| <u>Period</u> | <u>Days</u> | <u>Rate</u> | <u>Interest</u> |
|---|-------------|-------------|-----------------|
| 09/30/2011 – 12/31/2011 <i>(\$1,500 x .03 x 92/365)</i> | 92 | 3% | \$11.34 |
| 01/01/2012 – 02/15/2014 <i>(\$1,500 x .02 x 776/365)</i> | 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:

| Days Late | Penalty |
|------------------|---|
| 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:

Days Late Penalty

| | |
|------------|---|
| 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:

Days Late Penalty

| | |
|-------------|---|
| 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:

Days Late Penalty

| | |
|-------------|---|
| 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:

Days Late Penalty

| | |
|------------|---|
| 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.

DRAFT

1 **R861-1A-9. State Board of Equalization Procedures Pursuant to Utah Code Ann. Sections 59-**
2 **2-212, 59-2-1004, and 59-2-1006.**

3 (1) The commission sits as the state board of equalization in discharge of the equalization
4 responsibilities given it by law. The commission may sit on its own initiative to correct the
5 valuation of property that has been overassessed, underassessed, or nonassessed as described in
6 Section 59-2-212, and as a board of appeal from the various county boards of equalization described
7 in Section 59-2-1004.

8 (2) Appeals to the commission shall include:

9 (a) a copy of the recommendation of a hearing officer if a hearing officer heard the appeal;

10 (b) a copy of the notice required under Section 59-2-919.1;

11 (c) a copy of the minutes of the board of equalization;

12 (d) a copy of the property record maintained by the assessor;

13 (e) if the county board of equalization does not include the record in its minutes, a copy of
14 the record of the appeal required under R884-24P-66;

15 (f) a copy of the evidence submitted by the parties to the board of equalization;

16 (g) a copy of the petition for redetermination; and

17 (h) a copy of the decision of the board of equalization.

18 (3) A notice of appeal filed by the taxpayer with the auditor pursuant to Section 59-2-1006
19 shall be presumed to have been timely filed unless the county provides convincing evidence to the
20 contrary. In the absence of evidence of the date of mailing of the county board of equalization
21 decision by the county auditor to the taxpayer, it shall be presumed that the decision was mailed
22 three days after the meeting of the county board of equalization at which the decision was made.

23 (4) Appeals to the commission shall be scheduled for hearing pursuant to commission rules.

24 (5) Appeals to the commission shall be on the merits except for the following:

25 (a) dismissal for lack of jurisdiction;

26 (b) dismissal for lack of timeliness;

27 (c) dismissal for lack of evidence to support a claim for relief.

28 (6)(a) The commission shall consider~~[, but is not limited to,]~~ the facts and evidence
29 ~~[submitted to the county board.]~~ presented to the commission, including facts and evidence
30 presented by a party that was submitted to the county board.

31 (b) A party may raise a new issue before the commission.

32 (7) On an appeal from a dismissal by a county board for the exceptions under Subsection
33 (5), the only matter that will be reviewed by the commission is the dismissal itself, not the merits of
34 the appeal.

35 (8) An appeal filed with the commission may be remanded to the county board of
36 equalization for further proceedings if the commission determines that:

37 (a) dismissal under Subsections (5)(a) through (c) was improper;

38 (b) the taxpayer failed to exhaust all administrative remedies at the county level;

39 (c) in the interest of administrative efficiency, the matter can best be resolved by the county
40 board;

41 (d) the commission determines that dismissal under Subsections (5)(a) through (c) is
42 improper under R884-24P-66; or

43 (e) a new issue is raised before the commission by a party.

44 (9) The provisions of this rule apply only to appeals to the commission as the state board of
45 equalization. For information regarding appeals to the county board of equalization, see Section 59-
46 2-1004 and R884-24P-66.

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

Title of Rule: **Procedures for Purchaser Refund Requests**
Statutory Reference: **§59-1-1410 and §59-12-110**
Rule Number: **R861-1A-46**

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

To clarify the commission review process for appeals from purchaser refund request dismissals.

6. Summary of the rule change:

The proposed rule amendment clarifies that when reviewing an appeal from a dismissal of a purchaser refund request, the commission must determine whether adequate information and documents to determine the validity of the request were timely submitted to the division. If the appeal is successful the commission shall hear the underlying tax issue.

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 it only clarifies the administrative appeals process.

B) Local Government:

This proposed amendment is not expected to have any fiscal impacts on local government revenues or expenditures because it only clarifies the administrative appeals process.

C) Small Businesses (50 or less employees):

This proposed amendment is expected to reduce the burden on small businesses who file a sales tax purchaser refund request because it will allow the commission to consider whether adequate information and documentation was timely filed and the merits of the underlying case in the same action. This may result in a cost savings to impacted small businesses by reducing the number of actions they must file with the commission.

D) Persons other than small businesses or local government:

This proposed amendment is expected reduce the burden on persons other than small businesses or local governments who file a sales tax purchaser refund request because it will allow the commission to consider whether adequate information and documentation was timely filed and the merits of the underlying case in the same action. This may result in a cost savings to impacted persons by reducing the number of actions they must file with the commission.

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 is expected reduce the compliance burden on affected persons who file a sales tax purchaser refund request because it will allow the commission to consider whether adequate information and documentation was timely filed and the merits of the underlying case in the same action. This could result in a cost savings to affected persons by reducing the number of actions they must file with the commission.

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

This rule amendment will not have a fiscal impact because it reduces the compliance burden on businesses. It will reduce the number of actions required when a taxpayer prevails in certain refund requests.

14. Indexing information: _____

Substantive: Yes

Nonsubstantive:

Result of 5 year review: No

Originated by:
Office of the Commission

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: **Recycling Fee**
Statutory Reference: **§19-6-808**
Rule Number: **R865-19S-93**

4. Purpose of the rule or reason for the change:
To clarify the recycling fee information that must be included on the invoice for the purchase of a new tire.

6. Summary of the rule change:
The proposed rule amendment clarifies the statutory requirement under §19-6-808(4) and §59-12-107(3)(c) that a retailer must provide all purchasers of new tires with an invoice that specifically identifies the recycling fee as the “UCA 19-6-805 Recycling Fee”.

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 it only clarifies the information that must be included on the invoice for the purchase of new tires.

B) Local Government:

This proposed amendment is not expected to have any fiscal impacts on local government revenues or expenditures because it only clarifies the information that must be included on the invoice for the purchase of new tires.

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 it only clarifies the information that must be included on the invoice for the purchase of new tires.

D) Persons other than small businesses or local government:

This proposed amendment is not expected to have any fiscal impacts on the revenues or expenditures of persons other than small businesses or local government because it only clarifies the information that must be included on the invoice for the purchase of new tires.

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):
This proposed amendment may require some affected persons that sell new tires to modify their invoice to specifically identify the recycling fee as the “UCA 19-6-805 Recycling Fee” on the invoice. This may create a small one-time compliance cost on affected persons that do not already separately identify the recycling fee on the invoice.

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

This amendment may create a small one-time compliance cost on businesses because of the requirement to specify certain information on invoices.

14. Indexing information: _____

Substantive: Yes

Nonsubstantive:

Result of 5 year review: No

Originated by:
Office of the Commission

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: **Form for Notice of Property Valuation and Tax Changes**
Statutory Reference: **§59-2-918.5 through 59-2-924**
Rule Number: **R884-24P-24**

4. Purpose of the rule or reason for the change:
To reflect statutory changes pursuant to 2019 HB 446.

6. Summary of the rule change:
Consistent with HB 446, the proposed amendment changes the deadline for a fiscal year taxing entity to complete the tax increase process from by August 17 to before September 1.

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 2019 HB 446.

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 2019 HB 446.

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 2019 HB 446.

D) Persons other than small businesses or local government:

This proposed amendment is not expected to have any fiscal impacts on the revenues or expenditures of persons other than small businesses or local governments because any fiscal impacts would have been addressed in the fiscal note of 2019 HB 446.

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 is likely to slightly decrease the compliance burden on affected persons by delaying the deadline for a fiscal year taxing entity to complete the tax increase process from by August 17 to before September 1.

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

This amendment does not have a fiscal impact on businesses. Rather, it reduces compliance burdens.

14. Indexing information: _____

Substantive: Yes

Nonsubstantive:

Result of 5 year review: No

Originated by:
2019 HB 446

Drafted by:
Jason Gardner

Reviewed with Divisions:

Date:

Approved by Executive Director:

Date:

Approved for Submittal to DAR:

Date: