

Note: This redline does not include examples, schedules or tables. See the formatted draft.

E-Verify for Employers

Employers can help prevent identity theft by verifying the social security numbers of job applicants. E-Verify is a free service of the U.S. Department of Homeland Security that verifies employment eligibility through the Internet. Employers can use E-Verify at dhs.gov/E-Verify.

Electronic Filing Requirements

- You must file Utah withholding tax returns, W-2s and 1099s (with Utah tax withheld) electronically.
 - Your annual reconciliation is combined with your fourth quarter return (quarterly filers) or your annual return (annual filers).
 - File and amend returns electronically on our secure website at tap.utah.gov. We will reject any withholding forms received on paper.
 - You may pay withholding tax online or by check. If paying by check, print a payment coupon (TC-941PC) from tax.utah.gov/forms.
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Important Reminders

It is a class B misdemeanor to have Utah employees without a withholding license. See *How to Get a Withholding Account*, below.

If you file federal form 944, **Employer's Annual Federal Tax Return**, you may file and pay your Utah withholding tax annually.

If you do not meet the criteria in Utah Code §§59-10-402, 404 and 405, you are not required to have a Utah withholding account or to withhold Utah tax. Also, if you are not required to withhold Utah tax on a form 1099, you are not required to submit the 1099 form or to report the wages or compensation on your Utah withholding or reconciliation forms.

If you withheld tax from a nonresident professional athlete, you must complete the **Worksheet for Nonresident Professional Athletes** when you electronically file your annual reconciliation. Download the worksheet at tax.utah.gov/forms.

General Information

This publication includes:

- requirements for filing and paying Utah withholding tax,
- requirements for filing the Utah annual reconciliation,
- requirements for electronic filing,
- withholding tax schedules for calculating Utah withholding tax from employees' wages, and
- Utah withholding tax tables for quick lookup.

For questions about Utah withholding tax, see tax.utah.gov, or call us at 801-297-2200 (1-800-662-4335 outside the Salt Lake area).

This publication does not cover Utah withholding requirements for mineral production or pass-through entities. See tax.utah.gov/withholding and tax.utah.gov/utah-taxes/mineral-production.

This publication does not cover federal withholding requirements. Contact the Internal Revenue Service (IRS) (see *Agencies*, below).

Employment Tax Workshops

The Tax Commission (together with the IRS, Workforce Services, and the Labor Commission) holds Employment Tax Workshops sponsored by the Utah Small Business Development Centers (SBDC). These workshops teach employers how to withhold federal and state income taxes and explain federal and state filing and paying requirements. See *Agencies*, below, for more information.

Who Must Withhold Taxes

You must withhold Utah income tax (unless the employee has filed a withholding exemption certificate) if you:

- pay wages to any employee for work done in Utah;
- pay wages to Utah resident employees for work done outside Utah (you may reduce the Utah tax by any tax withheld by the other state);
or
- make payments reported on forms 1099 (or as required under Utah Code §59-10-405).

Employer Withholding Exemption

You may be exempt from Utah withholding requirements if you do business in Utah for 60 days or less in a calendar year and have Tax Commission approval. If you do business for more than 60 days, you must withhold taxes for the entire period unless you can show good cause. In that case, the Tax Commission may extend the exemption for 30 days. See Utah Code §59-10-402(2).

Submit exemption requests to:

Waivers
Utah State Tax Commission
210 N 1950 W
Salt Lake City, UT 84134-2000

Note: This exemption is for the employer, not the employee. The employee must still file and pay Utah tax on all Utah wages. Report Utah wages on form W-2, box 16.

Employee Withholding Exclusions

Nonresident Employees Working Temporarily in Utah

The wages of certain ~~non-residents~~nonresidents working temporarily in Utah are exempt from Utah withholding requirements. See Utah Code §§59-10-402 and 59-10-117.5.

Do not withhold Utah taxes for or report wages as Utah wages of a ~~non-resident~~nonresident employee who:

1. has no other sources of Utah income,
2. works in Utah for 20 days or less, and
3. is a resident of a state that either:
 - a) does not have an income tax, or
 - b) exempts the wages of nonresidents from taxation with an exclusion similar to this one.

This exclusion does not apply to:

1. professional athletes;
2. professional entertainers;
3. prominent persons who perform services on a per-event basis;
4. real property laborers; or
5. any employee who, during the year prior to the current tax year, was either a key employee or, in the case of a non-corporate employer, an employee/officer who is one of the 50 highest-paid employees (see definitions in IRC §416(i))

Interstate Transportation Wages

Wages of interstate transportation employees are taxable only in the state of their residency (see Public Law 101-322).

To qualify, the employee must:

1. work for an interstate railroad, interstate motor carrier or interstate private carrier;
2. be a nonresident of Utah;
3. have regularly assigned duties in more than one state;
4. be subject to the jurisdiction of the U.S. Secretary of Transportation; and
5. be an operator, mechanic or someone directly responsible for the safety of a motor vehicle.

“On-call” or “as-needed” duties are not considered “regularly assigned duties.”

A qualified employee must give the employer federal form W-4, *Employee’s Withholding Certificate* and write “Utah Only - Exempt, Interstate Transportation” under box 4c.

The employee must notify the employer immediately if they no longer qualify for the exclusion.

Do not report the employee’s wages as Utah wages in box 16 of form W-2 and do not withhold any Utah tax on the wages.

See *General Instructions* on federal form W-4.

Active Duty Service Member's Nonresident Spouse Wages

If a nonresident active duty military service member and a non-military spouse have the same domicile and the service member moves to Utah under military orders, the spouse's domicile does not change when moving to live with the service member. All of the spouse's income is exempt from Utah income tax.

A qualified spouse receiving employee wages should give his or her employer a federal form W-4, *Employee's Withholding Certificate*, with the following change:

- Write "Utah Only - Exempt, Military Spouse" under box 4c.

Do not withhold any Utah tax on wages paid to a qualified spouse. Even though the Utah wages are tax-exempt, report them on form W-2, box 16.

A qualified spouse must notify their employer immediately if they no longer qualify for the exclusion.

Definitions

Wages

Wages are payments or compensation for services performed by an employee for an employer. This includes payments in a form other than cash. Utah defines wages by the Internal Revenue Code, Section 3401(a).

Utah Taxable Wages

Utah calculates withholding tax based on wages subject to federal withholding tax (as defined by the IRS). **No subtraction is made for personal or other withholding allowances claimed on federal form W-4.**

Household Employees

Household employees provide domestic services in private homes, college clubs, fraternities, and sororities. Utah income tax may be withheld from household employees' wages if both the employer and the employee agree.

How to Get a Withholding Account

If you must withhold Utah taxes, you ~~have several options to~~ can get a withholding tax account online:

1. ~~Online using~~ Taxpayer Access Point at tap.utah.gov ("Apply for a Tax Account (TC-69)" link), or
2. ~~Online using the~~ OneStop Online Business Registration at osbr.utah.gov (multiple Utah agencies), ~~or~~
3. ~~Submitting form TC-69, Utah State Business and Tax Registration (Tax Commission only). Get forms online at~~ tax.utah.gov/forms.

Federal Employer Identification Number

Employers must get a federal employer identification number (EIN) from the IRS before registering in Utah.

You can request an EIN through the IRS's *Online EIN Application* at www.irs.gov. Contact the IRS at 1-800-829-4933 for more information.

If you change your EIN with the IRS, you must also change your Utah withholding account number (~~file form TC-69 and include~~ Schedule WTH see tap.utah.gov).

If you changed the EIN and Utah withholding account numbers during the year, you may need to file form TC-941D, *Discrepancy Report*. See *Balancing the Reconciliation* below.

Bond Requirements for Utah

You may have to post a bond of \$25,000 to \$500,000 if you have a history of filing or paying late. See Utah Code §59-10-405.5(6).

How Much to Withhold

Withhold amounts based on your employee's federal W-4 form and the Utah withholding schedules or tables in this publication. See Utah Rules R865-91-14 and 15.

How to File Returns

You must file returns electronically and pay all amounts withheld to the Tax Commission by the due dates.

You must file a return for each filing period, even if you don't withhold taxes during a period. We may assess a non-filing penalty if you make a payment without filing a return.

See detailed filing instructions and file returns online at tap.utah.gov. Also see tax.utah.gov/withhold/ti-02.pdf.

Filing with No Tax Liability (Zero Returns)

If there is no withholding for the period, you must file a return showing zeros. Failing to do so will result in an estimated tax assessment.

If you have no withholding for the entire year, you must still file an annual reconciliation (as part of the fourth quarter return) by January 31 of the following year. Failure to do so may result in penalties.

Amended Returns

An amended return replaces a previously filed return. Enter the total corrected amounts, not the amount of the adjustment.

File amended returns online at tap.utah.gov. Reopen the return in your online account, click the amended box, make any corrections, and resubmit the return.

Pay any additional taxes you owe (see *How to Make Payments*, below). Include interest calculated from the original due date to your payment date. Find interest rates in Pub 58, *Utah Interest and Penalties*, at tax.utah.gov/forms.

How to Make Payments

NOTE: Payments do not count as returns.

Pay online at tap.utah.gov, or mail your payment with payment coupon TC-941PC. Print payment coupons at tax.utah.gov/forms.

Pay online using:

- **Electronic Funds Transfer (EFT) ACH Credit** — You initiate this payment through your financial institution (they may charge a transaction fee). See *Electronic Funds Transfer - EFT*, at tax.utah.gov/billing.
- **ACH Debit Requests** — You authorize the Tax Commission to initiate this payment (there is no transaction fee). Go to tap.utah.gov for more information.
- **Credit Card** — Pay electronically with a credit card at tap.utah.gov. You will be charged a convenience fee for this service.

Payroll Service Providers

Payroll service providers may handle all withholding record keeping, payments and reconciliations for an employer. **However, the employer is responsible if returns and payments are not submitted on time.**

Liability

Employers are liable for the tax required to be withheld — not their employees. If you fail to pay any of the withheld taxes, we may put a lien on your business assets and personal property.

Annual Reconciliation

You must file an annual reconciliation for each year (or partial year) you have a withholding tax account, even if you have no employees or withholding to report for the year. Both quarterly and annual filers must file annual reconciliations.

Tax years starting 2018

Your reconciliation is combined with your fourth quarter withholding tax return (quarterly filers) or your annual withholding tax return (annual filers).

Tax years before 2018

If reconciling a tax year before 2018, you must file the reconciliation return in addition to and separately from your quarterly or annual withholding return(s).

See *Online Filing and Paying of Withholding and Mineral Production Taxes* at tax.utah.gov/developers/withholding for step-by-step annual reconciliation instructions.

Amended Reconciliations

An amended reconciliation replaces a previously filed reconciliation. Amend online at tap.utah.gov. Reopen the reconciliation in your online account, click the amended box, make any corrections, and resubmit the reconciliation. Submit **only new or corrected** W-2s and 1099s.

Late and/or Incorrect Filings

We will assess a penalty if you:

1. fail to file a complete ~~an~~ accurate reconciliation by January 31 (see *Due Dates*),
2. do not correctly prepare your W-2s or 1099s (see *W-2 and 1099 Requirements*), or
3. are an employer and do not file electronically.

See *Penalties and Interest*, below.

Also see *Online Filing and Paying of Withholding Tax*, at tax.utah.gov/developers/withholding.

Balancing the Reconciliation

If the total Utah taxes withheld as reported on forms W-2 and 1099 does not match the total Utah taxes reported on your quarterly or annual withholding return(s), your reconciliation is unbalanced and must be fixed.

Single Account Number

If you file Utah withholding under a single account number, balance your reconciliation following these steps:

1. Review your records and find the error.
2. File an amended withholding tax return(s) to correct the error.
3. File your reconciliation showing the corrected amounts and ensure that everything balances. Withholding reported for all periods must equal the Utah withholding shown on all W-2 and 1099 forms.
4. If you underpaid one or more periods, pay the additional tax due with the amended return, plus interest from the original due date for the period. See Pub 58, *Utah Interest and Penalties*. Pay online at tax.utah.gov, or if you are mailing a check, include the TC-941PC payment coupon.
5. If you overpaid one or more periods, send a letter to the Tax Commission with your account number, name, contact information, an explanation of the error, and if you would like the overpayment refunded or applied to another tax period.

Multiple Account Numbers

If you reported and paid Utah withholding tax under multiple account numbers, balance your reconciliation following these steps:

1. On forms W-2 and 1099, use the Utah account number directly associated with the EIN also used on the withholding documents.
2. File a reconciliation for each account, reporting what was filed and paid in the quarters for the account.
3. On the reconciliation for each account, report and electronically file the state copy of the W-2s and 1099s issued for the account.
4. Complete and submit a paper form TC-941D, *Discrepancy Report*, to show that the total amounts of Utah tax withheld on all your account balances with the W-2s and 1099s issued.

Fax the completed TC-941D to 801-297-6357, or mail to:

Utah State Tax Commission
Technical Research Unit
210 N 1950 W
Salt Lake City, UT 84134-7000

Withholding Filing Record

Keep a record of taxes withheld and paid to the Tax Commission for at least four years from the due date of the income tax return reporting wages.

Due Dates

Anything with a due date that falls on a Saturday, Sunday or legal holiday is due the next business day.

Utah does not follow the federal withholding payment periods. Utah only requires that payments be made monthly, quarterly or annually. The IRS semiweekly deposit and \$100,000 next day deposit rules do not apply to Utah withholding taxes.

Annual Returns with Annual Payments

If you report federal household employment taxes for household employees on federal form 1040, Schedule H, or file federal form 944, you can pay Utah withholding taxes for these same employees annually. The Utah return and payment are due January 31 after the year wages were paid.

Quarterly Returns with Quarterly Payments

If you withhold less than \$1,000 each month, file and pay your Utah withholding taxes quarterly. Quarterly returns and payments are due by the last day of the month after the quarter ends, as follows:

<u>Quarterly Filing Period</u>	<u>Due Date</u>
January - March	April 30
April - June	July 31
July - September	October 31

October - December

January 31

Quarterly filers may voluntarily change to quarterly returns with monthly payments. See *Filing Status Changes* in this publication.

Quarterly Returns with Monthly Payments

If you withhold \$1,000 or more each month, you must file quarterly, but pay your Utah withholding taxes monthly. Payments are due the last day of the following month:

<u>Monthly Pmt. Period</u>	<u>Due Date</u>
January	February 28 (or 29)
February	March 31
March	April 30
April	May 31
May	June 30
June	July 31
July	August 31
August	September 30
September	October 31
October	November 30
November	December 31
December	January 31

Annual Reconciliations, W-2s and 1099s

You must file electronically by January 31.

File copies of all forms W-2 and 1099 issued to employees and payees with your reconciliation.

Note: We will not issue income tax refunds to your employees before March 1 unless you electronically file your complete reconciliation by January 31 (see Utah Code §59-10-529.1). You must file an annual reconciliation if your account is open for any part of the year.

Filing Status Changes

The Tax Commission reviews each withholding account annually to determine if the reporting and payment periods should change (based on the previous year's filings). Quarterly payers may voluntarily change to paying monthly by submitting a written request by fax to 801-297-7579 or by mail to:

Exceptions Processing
Utah State Tax Commission
210 N 1950 W
Salt Lake City, UT 84134-3310

W-2 and 1099 Requirements

By January 31 you must give all employees a legible W-2 or 1099 form showing taxes withheld during the previous year.

In addition to federal requirements, wage and earning documents reporting Utah income or withholding must include the following information:

- Your federal Employer Identification Number (EIN).
- The recipient's federal Employer Identification Number (EIN or SSN).
- Your Utah withholding account number — the 14-digit number ending in WTH. (If this number won't fit in the space on your W-2 form, you may leave out the dashes in the account number.)
- The amount of income from Utah sources.
- The amount of Utah taxes withheld, if any.

Failure to provide all required information on W-2s and 1099s may result in penalties.

For other Utah withholding requirements information, call 801-297-3811 or TDD 801-297-2020.

Amending W-2s

You must file electronically.

If you reported incorrect information on an employee's W-2, you must file a corrected W-2. File the correction as a W-2c. Only file W-2cs for the W-2s you are correcting. When entering the data on the W-2c, only enter information in the fields you are changing.

Penalties and Interest

Late Filing and Late Payments

We may assess late filing and late payment penalties on non- and late-filed returns and payments made after the due date. See Pub 58, *Utah Interest and Penalties*.

The withholding penalty structure is:

<u>Days Late</u>	<u>Penalty Amount - Greater of</u>
1-5	\$20 or 2% of the outstanding tax
6-15	\$20 or 5% of the outstanding tax
16 or more	\$20 or 10% of the outstanding tax

Penalties are assessed for failing to file a tax due return and failing to pay tax due. A second penalty will be applied if the tax is still unpaid 90 days after the due date.

Submitting incorrect forms or forms with missing information may also result in penalties. See Pub 58, *Utah Interest and Penalties*.

Annual Reconciliation

We may assess penalties if you fail to file an annual reconciliation electronically, accurately and completely by January 31 (see Utah Code §§59-1-401(8) and 59-1-401(13)).

The penalties are:

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

Interest

The **interest rate** for all taxes and fees is two percentage points above the federal short-term rate for the prior fourth calendar quarter. See Pub 58, *Utah Interest and Penalties*.

Changing or Closing an Account

Use TC-69C, *Notice of Change for a Tax Account*, to:

- Report changes to your business or mailing address
- Change your business name
- Notify the Tax Commission you have changed your business ownership status
- Close your account

Get forms online at tax.utah.gov/forms.

You must close your Utah withholding account and open a new account if your EIN changes with the IRS (for example, you change from a sole proprietor to partnership). ~~Use form TC-69C~~ [Login to tap.utah.gov](https://tax.utah.gov) to open an account with your new EIN.

You must close your account if you sell your business or stop doing business in Utah. If you do not close your account, we will assess an estimated tax, including late penalties and interest. **Withholding licenses are not transferable.**

Agencies

Contact the following agencies for more information about state and federal withholding requirements.

Internal Revenue Service

Federal Income Tax Withholding and Self-Employment Tax

801-799-6963

1-800-829-1040 (for individuals)

1-800-829-4933 (for businesses)
www.irs.gov

Forms and Publications
1-800-829-3676
www.irs.gov/Forms-&-Pubs

Utah State Tax Commission

Utah Income Tax Withholding
801-297-2200
1-800-662-4335
tax.utah.gov

Employment Tax Workshops
Small Business Development Center
clients.utahsbdc.org/events.aspx
801-957-5441

Social Security Administration

866-851-5275
1-800-772-1213
socialsecurity.gov/employer

Utah Dept. of Workforce Services

Unemployment Compensation
801-526-9235
1-800-222-2857
jobs.utah.gov/ui/jobseeker/contactus.html

Labor Commission of Utah

Worker's Compensation
801-530-6800
1-800-530-5090
laborcommission.utah.gov

Utah Withholding Taxes Calendar

The following is a list of important Utah withholding tax dates. (See federal dates in IRS Publication 15.)

NOTE: Returns and full payment must be submitted by the due date (or next business day if the due date falls on Saturday, Sunday or a legal holiday).

Due Date

All Employers

Monthly Payers

Quarterly Payers

Annual Payers

January 31

Give forms W-2 and 1099 to employees and payees.

Electronically file annual reconciliation (including W-2s and 1099s).

Electronically file fourth quarter return and pay December withholding tax online at tap.utah.gov, or pay by check with TC-941PC

Electronically file and pay fourth quarter withholding tax online at tap.utah.gov, or pay by check with TC-941PC

Electronically file and pay annual withholding tax online at tap.utah.gov, or pay by check with TC-941PC

February 28

Pay January withholding tax online at tap.utah.gov, or by check with TC-941PC

March 31

end of first quarter

Pay February withholding tax online at tap.utah.gov, or by check with TC-941PC

April 30

Electronically file first quarter return and pay March withholding tax online at tap.utah.gov, or pay by check with TC-941PC

Electronically file and pay first quarter withholding tax online at tap.utah.gov, or pay by check with TC-941PC

May 31

Pay April withholding tax online at tap.utah.gov, or by check with TC-941PC

June 30

end of second quarter

Pay May withholding tax online at tap.utah.gov, or by check with TC-941PC

July 31

Electronically file second quarter return and pay June withholding tax online at tap.utah.gov, or pay by check with TC-941PC

Electronically file and pay second quarter withholding tax online at tap.utah.gov, or pay by check with TC-941PC

August 31

Pay July withholding tax online at tap.utah.gov, or by check with TC-941PC

September 30

end of third quarter

Pay August withholding tax online at tap.utah.gov, or by check with TC-941PC

October 31

Electronically file third quarter return and pay September withholding tax online at tap.utah.gov, or pay by check with TC-941PC

Electronically file and pay third quarter withholding tax online at tap.utah.gov, or pay by check with TC-941PC

November 30

Pay October withholding tax online at tap.utah.gov, or by check with TC-941PC

December 31

end of fourth quarter

Pay November withholding tax online at tap.utah.gov, or by check with TC-941PC

Utah Withholding Schedules

Instructions

Follow the instructions below to compute the employee's Utah income tax withholding.

1. Find the appropriate Utah Schedule based on the payroll period (see following chart) and the employee's filing status shown on federal W-4 form.
 - a) Enter on line 1 the Utah taxable wages.
 - b) Follow the instructions for each line to complete the withholding tax calculation.
2. Line 7 of the calculation is the Utah withholding tax for the pay period.

See examples, below.

If pay period is	Number of pay periods annually	Use schedule
Weekly	52	Schedule 1
Biweekly	26	Schedule 2
Semimonthly	24	Schedule 3
Monthly	12	Schedule 4
Quarterly	4	Schedule 5
Semiannual	2	Schedule 6
Annual	1	Schedule 7
Daily	Daily	Schedule 8

If you have questions about the withholding schedules, contact:

~~Taxpayer Services~~

Utah State Tax Commission
 210 North 1950 West
 Salt Lake City, UT 84134
 801-297-7705
 1-800-662-4335 ext. 7705

Examples of Utah Withholding Calculations

The following examples show different combinations of pay period, taxable wages and filing status.

Utah Withholding Tables

Note: Use the *Single* column for taxpayers who file as head-of-household on their federal return.

Weekly and Biweekly Payroll Periods

Semimonthly and Monthly Payroll Periods

Quarterly and Semiannual Payroll Periods

Annual and Daily/Miscellaneous Payroll Periods