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Utah State Tax Commission

**Utah Fiduciary Income Tax
Return And Instructions**

TC-41

210 North 1950 West
Salt Lake City, Utah 84134
(801) 297-2200
1-800-662-4335
tax.utah.gov

2008

General Instructions

Who Must File

A fiduciary of a resident estate or trust, or a fiduciary of a nonresident estate or trust with income derived from Utah sources, if required to file a federal Fiduciary Income Tax Return, must file a Utah Fiduciary Income Tax Return (form TC-41). A complete copy of the federal Fiduciary Income Tax Return, form 1041 or 1041-QFT (including copies of all applicable schedules) must be attached to the Utah return.

When to File and Pay

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

1. By April 15, 2009, if you file on a 2008 calendar year basis (tax year ends December 31, 2008); or
2. By the 15th day of the fourth month following the close of the fiscal year, if you file on a fiscal year basis.

All Utah income taxes for the year 2008 must be paid by the due date. Make check or money order payable to the Utah State Tax Commission. If your return is not filed on time or all income tax due is not paid by the due date you may be subject to penalties and interest. (See Penalties and Interest instructions on page 1.)

Extension of Time to File

There is NO extension of time to pay your taxes – only an extension of time to file your tax return.

You are automatically allowed an extension of up to six months to file your return without filing an extension form. However, if the prepayment requirements (see next paragraph) are not met on or before the original due date penalties will be assessed. (See Penalties and Interest instructions on page 1.) All extension returns must be filed by October 15, 2009.

Prepayment Requirements for Filing Extension

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

The required prepayment must equal:

- Ninety percent (90%) of the tax due for 2008 or;
- One hundred percent (100%) of the 2007 Utah tax liability as indicated on the 2007 Utah Fiduciary Income Tax Return.

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

Where to File

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

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

Tax Period and Accounting Method

The first return filed by an administrator or executor of an estate must cover the period from the date of death of the decedent to the end of the first tax year selected by the fiduciary. The first return filed by a fiduciary of a trust must cover the period beginning with the creation of the trust to the end of the first tax year selected by the fiduciary. Returns must be filed for each subsequent year the estate or trust is in existence. The taxable year cannot be longer than 12 months and must coincide with the tax year selected for filing the federal return. The accounting methods used for federal fiduciary income tax purposes must be the same for Utah fiduciary income tax purposes.

FINAL RETURN: Check the box provided in the top center of the return, if this is a final return.

Rounding Off to Whole Dollar Amounts

Round off cents to the nearest whole dollar. Round down if cents are under 50 cents; round up if cents are 50 cents and above. **Do not enter cents anywhere on the return.**

Recordkeeping and Documentation

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

Penalties

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

Interest (In addition to any penalties due)

Interest will be assessed on any underpayment from the original due date until any outstanding liability is paid in full. The interest rate for most taxes and fees administered by the Tax Commission for the 2009 calendar year is **5 percent**. Use the online Penalty and Interest Calculator at tax.utah.gov/picalc or follow the instructions in Pub 58, available at tax.utah.gov/forms to assist you.

Fiduciary and Estate Defined

The term fiduciary means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any individual or entity. The term estate refers only to the estate of a deceased person and does not include a trust maintained for minors, for a person adjudicated incompetent, or for any person who is suffering from some other legal disability.

Note: Throughout these instructions, any reference to “you” means the fiduciary of the estate or trust.

Domicile Defined

Domicile is the place where an individual has a permanent home and to which he intends to return after being absent. It is the place at which an individual has voluntarily fixed his habitation, not for a special or temporary purpose, but with the intent of making a permanent home. A domicile, once established, is not lost until all of the following three elements are met:

1. A specific intent to abandon the former domicile;
2. The actual physical presence in a new domicile; and
3. The intent to remain in the new domicile permanently.

For more information on determining domicile/residency, see Tax Commission rules R865-91-2 and R884-24P-52. Visit our website at tax.utah.gov/research/ruleseffective.html.

Resident Estate or Trust Defined

Resident estate or resident trust means:

1. An estate of a decedent who, at his death, was domiciled in Utah;
2. A trust, or a portion of a trust, consisting of property transferred by will of a decedent who at his death was domiciled in Utah; or
3. A trust administered in Utah. A trust shall be considered to be administered in Utah if:
 - a. The place of business where the fiduciary transacts a major portion of its administration of the trust is in Utah; or
 - b. The usual place of business of the fiduciary is in Utah.

Nonresident Estate or Trust Defined

The terms nonresident estate or nonresident trust are defined as estates or trusts that are not resident estates or trusts.

Exempt Trusts Defined

A trust exempt from federal income tax is exempt from Utah income tax unless there is unrelated business income in Utah.

Amended Return

To amend a previously filed return, use the tax form and instructions for the year you are amending.

You can obtain prior year forms and instructions at tax.utah.gov/forms/old.html.

Amend your return promptly if:

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

Generally, to qualify for a refund or a credit, an amended return must be filed within three years following the date the original return was due. A return filed before the due date is considered filed on the due date. If an amended return must be filed based on changes made by the IRS, a claim for refund or credit must be made within two years after a Utah amended return was required to be filed.

How to Amend a 2008 Utah Fiduciary Tax Return

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

Reason-for-Amending Codes (enter on return)

- 1 You filed an amended return with the IRS (attach a copy of your amended federal return).
- 2 You made an error on your Utah return (attach an explanation of the error).
- 3 Your tax calculation was changed by an IRS audit and/or adjustment (attach a copy of the IRS adjustment).
- 4 You had a net operating loss. Utah treats net operating losses in the same manner as the federal return. If your amended return is the result of a carryback net operating loss, complete a fiduciary tax return for each year you are amending (attach a copy of your amended federal return).
- 5 Other (attach explanation to return).

- B. Enter the corrected figures on the return and/or schedules.
- C. Enter all other amounts shown on your original return. If you received a refund on your original return, enter the amount of the previous refund on line 27 of the 2008 amended return. If you paid with the original return or made subsequent payments of the tax prior to filing the amended return, enter the total previous payments on line 32 of the 2008 amended return.
- D. Submit the amended return with all schedules, including copies of those schedules that did not change from the original filing.
- E. Do not submit a copy of your originally-filed return with your amended return.

Amounts Reportable as Utah Income by the Beneficiaries

Resident beneficiaries will report to Utah the income from the estate or trust included in the beneficiary's federal adjusted gross income as though the beneficiary received the income directly. The residence of the estate or trust does not affect the source of income for computing the beneficiary's Utah individual income tax. Nonresident beneficiaries must file Utah income tax returns and report that portion of their distribution derived from Utah sources (see instructions for TC-41B).

Federal Form 8886

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

Line-By-Line Instructions

Heading

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

Enter the federal employer identification number (EIN) of the estate or trust. If the estate or trust is filed using a social security number (SSN) instead of an EIN, check the box below this number.

1. Type of Return

Enter the appropriate code that describes the entity for which you are filing the return. The type of return must match the type of entity indicated in part A of federal Form 1041. For pooled income funds, enter H for a charitable trust.

Electing Small Business Trust (ESBT) returns must report federal taxable income on line 4 and the separate small business trust portion of the taxable income on TC-41A, Part 1, code 58.

Federal Form 1041-QFT filers will find the general instructions on how to file their Utah return on pages 18 and 19.

Bankruptcy Estate filers will find the specific instructions on pages 16 and 17 on how to compute their Utah tax on the TC-41C.

2. Status of Estate or Trust

Enter the code "R" for a resident estate or trust, or "N" for nonresident estate or trust. Refer to the General Instructions to determine if the estate or trust is a resident or nonresident entity.

3. Nonresident Beneficiaries

If any beneficiary of the trust is not a resident of Utah, enter an "X" in the box. If all beneficiaries are residents of Utah, leave the box blank.

Resident defined

A trust beneficiary is a Utah resident if:

1. Domiciled in Utah for the entire year, even if temporarily outside of Utah for an extended period of time - even years in certain situations;
2. Domiciled in Utah for any period of time during the taxable year, but only for the duration of that period; or
3. Even though domiciled outside Utah, maintains a permanent place of abode within the state and spends a total of 183 days or more of the taxable year within Utah.

Part-year resident defined

A trust beneficiary is a part-year Utah resident if domiciled in Utah for part of the taxable year and domiciled outside of Utah for part of the taxable year. For purposes of this line only, enter an "X" in the box if any beneficiary is a part-year resident.

Nonresident defined

A trust beneficiary is a Utah nonresident if that beneficiary is not domiciled in Utah, or was in Utah for a temporary or transitory purpose for less than 183 days during the taxable year.

4. Federal Total Income

Enter the federal total income from form 1041, line 9 or form 1041-QFT, line 5.

Bankruptcy Estates. Trustees of an individual bankruptcy estate (chapter 7 or chapter 11) must complete TC-41C, Bankruptcy Estate Tax Calculation, to determine the taxable income and tax liability of the estate. Follow these instructions for entries on TC-41:

- Leave lines 4 through 20 blank.
- Line 21, Utah income tax – enter the amount from TC-41C, line 16 or line 20, whichever applies.
- Lines 22 through 39 – complete according to the regular fiduciary instructions.

5. Additions to Income

If you have any of the following additions to income, complete TC-41A, Part 1. On TC-41A, write the **code and amount** of each addition to income. Carry the sum of all additions to income to line 5. An explanation of each addition to income is listed below.

NOTE: Only include amounts on this line that will not be passed through to the beneficiaries. An apportionment of the additions to income between the income taxed at the trust level and the amounts distributed to the beneficiaries must be calculated. Follow these steps to calculate the apportioned amount that must be added on this line:

1. Divide the amount distributed to beneficiaries by distributable net income;
2. Multiply the amount calculated in step 1 by the total amount of the addition that must be apportioned; and
3. Subtract the amount calculated in step 2 from the total amount of the addition that must be apportioned.

Codes for TC-41, Part 1

- 51 Lump Sum Distribution
- 54 Utah Educational Savings Plan Unqualified Withdrawal (UESP)
- 57 Municipal Bond Interest
- 58 ESBT S Corporation Income
- 62 Fiduciary Adjustments
- 69 Equitable Adjustments

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

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

If you received a lump sum distribution and filed federal form 4972, enter the total of the amounts shown on Part II, line 6 and on Part III, line 10. Keep a copy of form

4972 and any 1099-R forms showing the distribution with your records.

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

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

If an amount is withdrawn from a Utah Educational Savings Plan by the fiduciary but not expended for qualified higher education costs, the withdrawn amount must be added-back to income if the amount withdrawn was deducted on the fiduciary's Utah return after 2007. A UESP account holder should receive form TC-675H, Statement of Contributions and Disbursements for the Utah Educational Savings Plan, from UESP. Keep this form with your records. If you have any questions about UESP, call 801-321-7188 or 1-800-418-2551 or www.uesp.org.

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

Interest from certain bonds, notes and other evidences of indebtedness (commonly known as municipal bonds) issued by non-federal governmental entities outside Utah will be subject to Utah income tax if acquired on or after January 1, 2003. However, interest earned on non-Utah municipal bonds will not be subject to Utah tax if the state (or political subdivision) issuing the bonds does not impose an income tax on bonds issued by Utah. For more information, visit incometax.utah.gov/topics_municipalbonds.php.

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

Electing Small Business Trusts (ESBTs) must report the separate S portion of the taxable income, as calculated on the attachment to federal form 1041.

(62) Fiduciary Adjustments (UC §59-10-210)

Enter any qualified fiduciary adjustment and attach an explanation of the adjustment made.

(69) Equitable Adjustments (UC §59-10-209.1)

Enter any qualified equitable adjustment needed to prevent receiving a double tax benefit. Attach an explanation of any equitable adjustment reported.

6. Total Adjusted Income

Add line 4 and line 5.

7. Fiduciary Fees for Administering Trust

Enter the amount of any fiduciary fees deducted on your federal form 1041, line 12.

8. Income Distribution Deduction

Enter the amount of any income distribution deductions reported on your federal form 1041, line 18. Do not include any cemetery perpetual care fund fees you deducted under IRC 642 on the federal return.

9. Estate Tax Deduction

Enter the amount of any estate tax deduction, including certain generation-skipping taxes, deducted on your federal form 1041, line 19.

10. Exemption

Enter the amount of the exemption deduction taken on your federal form 1041, line 20.

11. Deductions from Income

If you have any of the following deductions from income, complete TC-41A, Part 2. On TC-41A, Part 2, write the **code and amount** of each deduction from income. Carry the sum of all deductions from income to line 11 of your return. An explanation of each deduction from income is listed below.

NOTE: Only include amounts on this line that apply to income that will be taxed at the trust level. An apportionment of the deductions from income between the amount taxed at the trust level and the amounts distributed to the beneficiaries must be calculated. Follow these steps to calculate the apportioned amount that may be deducted on this line:

1. Divide the amount distributed to beneficiaries by distributable net income;
2. Multiply the amount calculated in step 1 by the total amount of the deduction that must be apportioned; and
3. Subtract the amount calculated in step 2 from the total amount of the deduction that must be apportioned.

Codes for TC-41A, Part 2

71	Interest from U. S. Government Obligations
77	Native American Income
78	Railroad Retirement Income
79	Equitable Adjustments
80	State Tax Refund Included in Federal Income
84	Nontaxable Income from Irrevocable Resident Trust
86	Nongrantor Charitable Lead Trust Charitable Contribution
87	Fiduciary Adjustments

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

See Pub 33 for detailed instructions and examples of Interest from U. S. Government Obligations.

Interest earned on U. S. Government obligations issued by an agency or instrumentality of the United States is **exempt** from state income tax. U. S. Government obligations include:

- Treasury bills,
- Treasury notes, and
- E, EE, H, HH, and I bonds

Income **NOT** exempt from Utah income tax includes:

- Interest or dividends from Federal National Mortgage Association (FNMA) and Government National Mortgage Association (GNMA); and
- Interest on refunds from the IRS or any federal agency.

The U. S. Supreme Court in *Smith vs Davis*, 323 U.S. 111 (1944) established the following conditions for determining if the instrument qualifies as a U. S. Government obligation:

1. The instrument must be a written document,
2. Bear interest,
3. Contain a binding promise by the U. S. Government to pay a specific sum on a specific date, and
4. Have congressional authorization to pledge the full faith and credit of the United States in support of the promise to pay.

Only interest or dividend income from U. S. Government obligations included in your federal taxable income should be deducted from Utah income. Before entering an amount, subtract any related interest expense on money borrowed to purchase the obligation or security.

If the interest income is from a trust, attach a schedule to your return showing the calculation of income. Include the name, residency and federal identification number of the trust making the distribution.

(77) Native American Income (UC §59-10-202(2)(c) and (f))

An enrolled member of a Native American tribe in Utah who lives and works on the reservation on which he/she is an enrolled member is exempt from Utah income tax on the reservation income. An enrolled member of the Ute tribe who works on the Uintah and Ouray Reservation and lives on land removed from that reservation under *Hagen v. Utah* (510 U.S. 399 (1994)) is exempt from Utah income tax on income earned on the reservation.

Enter on TC-41A, Part 2, using code 77, the exempt income included in your federal taxable income. Enter your enrollment/census number and a Native/Tribe Code from the list below in the box designating to which nation/tribe you belong.

Nation/Tribe Code

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

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

Federal law does not permit states to tax railroad retirement or disability income received from the Railroad Retirement Board on form RRB-1099. States are

also prohibited from taxing unemployment and sickness benefits from this source.

Railroad retirement pensions are deductible on the Utah return only to the extent they are taxable on the federal return. If you received pension payments, disability income or unemployment payments under the Railroad Retirement Act and are required to report all or part of the amount received as income on the federal return, you may deduct that amount from Utah income.

(79) Equitable Adjustments (UC §59-10-209.1)

Enter any qualified equitable adjustment needed to prevent suffering a double tax detriment. Attach an explanation of any equitable adjustment reported.

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

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

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

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

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

(86) Nongrantor Charitable Lead Trust Charitable Contribution (UC §59-10-202(2)(g))

Enter the amount a qualified nongrantor lead trust deducted on its federal return as a charitable contribution under IRC Section 642(c).

(87) Fiduciary Adjustments (UC §59-10-210)

Enter any qualified fiduciary adjustment and attach an explanation of the adjustment made.

12. Total Deductions

Add lines 7 through 11.

13. Utah Taxable Income

Subtract line 12 from line 6. This is your Utah taxable income. If less than zero, enter "0".

14. Utah Tax

Multiply the Utah taxable income on line 13 by .05 (5%).

**Fiduciary Tax Credit (lines 15 - 20)
(UC §59-10-1020)**

Estates and trusts are allowed a credit against their Utah tax based on the total of their interest expense, taxes paid, charitable contributions, attorney/accountant/tax preparer fees, and certain miscellaneous deductions. The taxpayer tax credit is phased-out for income over a specific amount.

15. Allowable Deductions for Credit

Enter the amount from line 6 below on line 15 of your TC-41. See line instructions for the worksheet on page 7.

WORKSHEET FOR ALLOWABLE DEDUCTIONS

1. Interest	\$ _____
2. Taxes	\$ _____
3. Charitable contributions	\$ _____
4. Attorney/accountant/return preparer fees	\$ _____
5. Miscellaneous deductions	\$ _____
6. Total deductions (add lines 1 through 5)	\$ _____

Enter the amount from line 6 above on line 15 of your TC-41.

Line Instructions for the Worksheet on page 6:

- Line 1 – Interest. Enter the total interest paid or accrued, and deducted on the federal return under IRC section 163 for the taxable year.
- Line 2 – Taxes. Enter the total taxes paid or accrued, and deducted on the federal return under IRC section 164 for the taxable year. Do not include any amounts paid or accrued for state or local income taxes for the taxable year in this figure.
- Line 3 – Charitable Contributions. This is the total charitable contributions deducted on the estate or trust federal return for the taxable year. Do not include any amounts a qualified nongrantor charitable lead trust deducts under IRC section 642(c) in this amount.
- Line 4 – Certain Fees. This is the total deducted on the federal return for the taxable year for attorney, accountant, or return preparer fees.
- Line 5 – Miscellaneous Deductions. This is the total miscellaneous and other deductions deducted on the federal return for the taxable year.

16. Initial Credit before Phase-out

Multiply the amount on line 15 by .06 (6%).

17. Phase-out Base Amount

The base phase-out amount for an estate or trust is \$12,000.

18. Income Subject to Phase-out

Subtract line 17 (the phase-out base amount) from line 13 (Utah taxable income). Do not enter an amount less than zero.

19. Phase-out Amount

Multiply line 18 by .013 (1.3%). This is the credit phase-out amount.

20. Estate or Trust Tax Credit

Subtract the phase-out amount on line 19 from the initial credit on line 16. If the result is less than zero, enter "0".

21. Utah Income Tax

Subtract the estate or trust tax credit on line 20 from the tax calculated on line 14. If the result is less than zero, enter "0".

Bankruptcy Estates. Enter the tax calculated on TC-41C, line 16, or line 20 if applicable. Then complete lines 22 through 39 according to the regular fiduciary instructions.

22. Apportionable Nonrefundable Credits

Keep all related documents with your records. You may be asked to furnish this information later to verify a credit claimed on your Utah return.

If you claim any of the following apportionable nonrefundable credits (credits that must be apportioned for nonresidents and part-year residents), complete TC-41A, Part 3 and attach it to your Utah return. On TC-41A, write the **code and amount** of each credit you are claiming. Carry the sum of all credits to line 22 of your return. An explanation of each apportionable nonrefundable credit is listed below.

Codes for Apportionable Nonrefundable Credits

- 04 Capital Gain Transactions Credit
- 20 Utah Educational Savings Plan (UESP) Credit

**(04) Capital Gain Transactions Credit
(UC §59-10-1022)**

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

- The gain occurs on or after January 1, 2008;
- At least 70% of the proceeds of the capital gain transaction are used to purchase qualifying stock in a Utah small business corporation within 12 months from when the gain was recognized; and
- The individual did not have an ownership interest in the qualified Utah small business corporation at the time of investment.

For more information and detailed definitions, visit the Tax Commission website, incometax.utah.gov/credits_capitalgains.php or refer to UC §59-10-1022.

Calculation of Capital Gain Transactions Tax Credit

1. Eligible short-term or long-term capital gain transaction \$ _____

2. Multiply line 1 by .05. This is your credit. \$ _____

Enter this amount on TC-41A, Part 3, using code 04.

Note: Any credit in excess of the tax liability may not be carried back or carried forward.

(20) Utah Educational Savings Plan (UESP) Credit (UC §59-10-1017)

If you made a qualified investment in a Utah Educational Savings Plan (UESP) account, you may claim a nonrefundable credit against your Utah tax. To qualify, the investment must be made during the taxable year and not have been deducted on your federal return. The deduction is limited to the lesser of the investment made during the tax year or \$1,650 per individual beneficiary.

A UESP account holder should receive form TC-675-H, Statement of Contributions and Disbursements for the Utah Educational Savings Plan, from UESP. Use the qualified amount from line 1 of form TC-675-H to calculate the credit.

Keep form TC-675-H with your records. If you have any questions about UESP, call 801-321-7188 or 1-800-418-2551, or www.uesp.org.

Calculation of UESP Tax Credit

1. Eligible amount for credit from line 1 of form TC-675H \$ _____

2. Multiply line 1 by .05. This is your UESP credit. \$ _____

Enter this amount on TC-41A, Part 3, using code 20.

Note: Any UESP credit in excess of the tax liability may not be carried back or carried forward.

23. Subtract line 22 from line 21

Apportionable nonrefundable credits cannot exceed the tax liability on the return. If the total of the credits shown on line 22 is greater than or equal to the tax on line 21, enter "0".

FULL-YEAR RESIDENT ESTATE OR TRUST – Enter the tax from line 23 on line 24 on page 2 of TC-41 and then complete the rest of the return.

NON OR PART-YEAR RESIDENT ESTATE OR TRUST – Complete the TC-41B, lines 1 through 16. Enter the tax amount from line 23 of your TC-41 on line 17 of the TC-41B. Calculate line 18 of the TC-41B, and enter that tax on line 24 of page 2 of TC-41. Complete the balance of the TC-41.

See more detailed instructions for the TC-41B on page 16.

24. Enter Tax

Full-year resident estate or trust: Enter the tax from line 23.

Non or part-year resident estate or trust: Enter the tax from line 18 of your TC-41B.

25. Nonapportionable Nonrefundable Credits

Keep all related documents with your records. You may be asked to furnish this information later to verify a credit claimed on your Utah return.

If you claim any of the following nonapportionable nonrefundable credits, complete TC-41A, Part 4 and attach it to your Utah return. On TC-41A, write the **code and amount** of each credit you are claiming. Carry the sum of all credits to line 25 of your return. An explanation of each nonapportionable nonrefundable credit is listed below.

Codes for Nonapportionable Nonrefundable Credits

02 Qual. Sheltered Workshop	10 Recycling Market
03 Carryover 04, 05, 06 Energy Cr.	12 Research Activities in Utah
05 Clean Fuel Vehicle	13 Research Mach./Equip.
06 Historic Preservation	17 Taxes Paid to Another State
07 Enterprise Zone	21 Residential Energy System
08 Low-Income Housing	

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

There is no form for this credit. Keep all related documents with your records. The name of the qualified workshop must be written on TC-41A, Part 4 to claim the credit.

Cash contributions made within the tax year to a qualified nonprofit rehabilitation sheltered workshop facility operating in Utah for persons with disabilities are eligible for a credit against Utah income taxes. Check with the workshop to make sure they have a current Day Training Provider License or Day Support Provider Certificate issued by the Department of Human Services. The credit is equal to the lesser of \$200 or 50 percent of the total cash contributions.

Contributions claimed as a tax credit under this section may not also be claimed as a charitable deduction in determining net taxable income.

Contact the Contract Administrator, Division of Services for People with Disabilities, 120 N 200 W #411, SLC, UT 84103, telephone 801-538-4200; www.hsdspd.utah.gov for more information.

(03) Carryover of 2004, 2005 or 2006 Energy Credit (UC §59-10-1014)

If you claimed a renewable energy systems tax credit on your 2004, 2005, or 2006 Utah fiduciary return, and the tax credit was in excess of your tax liability for the year claimed, the excess credit may be carried

over to the four succeeding years. If you have any excess credit that was not used against a subsequent tax year liability, and are carrying over that excess credit to 2008, enter the unused carryover on TC-41A, Part 4, using code 03.

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

Complete form TC-40V, Clean Fuel Vehicle Tax Credit, with the Division of Air Quality approval stamp, verifying the credit has been approved. Do not send form TC-40V with your return. Keep the form and all related documents with your records.

To qualify, you must have:

- Purchased a vehicle which is registered in Utah, for which this credit has not been taken, that was manufactured to use propane, natural gas, electricity, or other approved fuel, or
- Purchased and installed equipment to convert a special mobile engine or vehicle registered in Utah to use propane, natural gas, electricity, or other approved fuel.

Note: The credit is not available for electric-hybrid vehicles.

Contact the Division of Air Quality, 150 N 1950 W, SLC, UT 84116, telephone 801-536-4000, or www.airquality.utah.gov/Planning/Mobile/Clean_Fuel_Tax_Credit.htm for additional information.

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

Complete form TC-40H, Historic Preservation Tax Credit, with the State Historic Preservation Office certification, verifying the credit has been approved. Do not send form TC-40H with your return. Keep the form and all related documents with your records.

The credit is for costs incurred in connection with qualified rehabilitation of any certified historic residential building. Any credit exceeding the tax owed may be carried forward for five consecutive years as a credit against Utah tax due.

Contact the State Historic Preservation Office, 300 Rio Grande, SLC, UT 84101, telephone 801-533-3503, or history.utah.gov/historic_preservation to obtain form TC-40H, certification, and additional information.

**(07) Enterprise Zone Credit
(UC §63M-1-413)**

NOTE: An individual may not claim this credit or carry this credit forward into a year the individual claims the recycling market development zone credit (nonapportionable nonrefundable credit, code 10) or the targeted business income tax credit (refundable credit, code 40).

There is no form for this credit. Keep all related documents with your records.

The Enterprise Zone Credit is available for certain businesses that hire new full-time employees, rehabilitate buildings or meet certain other requirements in a designated zone. Indian tribes may apply for enterprise zone designation within an Indian reservation.

Any credit amount exceeding the tax owed may be carried forward for three consecutive years as a credit against Utah tax due.

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

Contact the Governor's Office of Economic Development, 324 S State St, Suite 500, SLC, UT 84111, telephone 801-538-8775; goed.utah.gov/incentives/enterprise_zones or email lprall@utah.gov to obtain additional information.

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

Individuals sharing in the credit must obtain form TC-40TCAC, Utah Low-Income Housing Tax Credit Allocation Certification, and complete form TC-40LI, Summary of Utah Low-Income Housing Tax Credit. If you are carrying this credit back or forward, you must also complete form TC-40LIC, Utah Low-Income Housing Tax Credit Carryback and/or Carryforward. Do not send these forms with your return. Keep the forms and all related documents with your records.

The building project owner must also complete and attach form TC-40LIS, Credit Share Summary of Low-Income Housing Project, to the return.

This credit is an amount, determined by the Utah Housing Corporation, for the owners of a low-income housing project who have also received an allocation of the federal low-income housing tax credit. When this credit is applicable, the project owner will provide form TC-40TCAC (issued by the Utah Housing Corporation) to the taxpayer. Any credit amount exceeding the tax owed may be carried back three years or carried forward for five consecutive years as a credit against Utah tax due.

Contact Utah Housing Corporation, 2479 S Lake Park Blvd, West Valley City, UT 84120, telephone 801-902-8000, or at www.utahhousingcorp.org for information.

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

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

Complete form TC-40R, Recycling Market Development Zone Tax Credit, with the Governor's Office of Economic Development certification, verifying the credit has been approved. Do not send form TC-40R with your return. Keep the form and all related documents with your records.

The credit is available to individuals and businesses operating in a designated recycling market development zone.

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

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

There is no form for this credit. Keep all related documents with your records.

The credit is equal to:

1. 5% of the taxpayer's qualified expenses for the taxable year incurred for increasing research activities in Utah above a base amount,
2. 5% of certain payments made during the taxable year to a qualified organization increasing basic research in Utah above a base amount, and
3. 5% of the taxpayer's qualified research expenses for the taxable year beginning in 2008.

Any credit under 1 or 2 above exceeding the tax owed may be carried forward for the next 14 taxable years as a credit against Utah tax due. Any credit under 3 above may not be carried forward.

2007 Credit: This credit formerly could be claimed in the taxable year immediately following the year for which the taxpayer qualified for the credit. Consequently, those who had qualified research expenses in 2007 may deduct that credit in 2008, along with any 2008 credit, as explained above.

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

There is no form for this credit. Keep all related documents with your records.

The credit is equal to:

1. 6% of the purchase price of machinery, equipment, or both used primarily to conduct qualified research in Utah for not less than 12 consecutive months, and
2. 6% of the purchase price of machinery, equipment, or both donated to a qualified organization and used primarily to conduct basic research in Utah for not less than 12 consecutive months.

Any credit exceeding the tax owed may be carried forward for the next 14 taxable years as a credit against Utah tax due.

If machinery and equipment for which this credit was claimed are used for less than 12 consecutive months to primarily conduct qualified research, the credit claimed is not allowed. File an amended return for the year the credit was claimed, removing the credit from the return and paying any increase in tax. See amended return instructions on page 2.

2007 Credit: This credit formerly could be claimed in the taxable year immediately following the year for which the taxpayer qualified for the credit. Consequently, those who had qualified research expenses in 2007 may deduct that credit in 2008, along with any 2008 credit, as explained above.

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

This credit only applies to resident estates or trusts.

A Utah estate or trust whose income is taxed by Utah and another state(s), the District of Columbia, or a possession of the United States, may be entitled to a credit against Utah income tax for the amount of tax paid to the other state(s).

To calculate the credit for fiduciary tax paid to another state, complete TC-41S. Carry the sum of the credits from line 7 to TC-41A, Part 4, using code 17. Keep a copy of each state return for which a credit is claimed.

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

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

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

Any credit amount exceeding the tax owed may be carried forward for four consecutive years as a credit against Utah tax due.

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

26. Subtract line 25 from line 24

If line 25 is greater than or equal to line 24, enter "0".

**27. Amended Returns Only
(Previous Refund)**

This line is **only** for amended returns. When filing an amended return, enter the total amount of all refunds, credits, or offsets of state income tax received for the tax year being amended. Exclude refund interest from this amount.

28. Utah Use Tax

Use tax is required on all taxable items purchased for storage, use or consumption in Utah during the filing year, if sales and use tax was not paid at the time of purchase. Purchases include amounts paid or charged for purchases made on the Internet or through catalogs.

Complete the worksheet on page 11 to determine the amount of use tax due.

Credit is allowed for sales or use tax paid to another state, but not a foreign country. If the tax rate in the other state is lower than Utah's rate, the taxpayer must pay the difference. If the tax rate in the other state is greater than Utah's rate, no sales or use tax credit or refund is allowed. If sales taxes were paid to more than one state, complete a worksheet for each state. Enter the sum of the use tax from each worksheet on line 28.

Sales and use tax rates vary throughout Utah. Use the chart on this page to find the rate for the Utah location where the merchandise was delivered, stored, used or consumed. If the city is not listed, use the county tax rate.

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

Enter use tax of \$400 or less. If the amount exceeds \$400, the purchaser is required to obtain a sales and use tax license and to pay the use tax on a sales and use tax return.

.0590 Beaver County	.0680 Salt Lake County
.0690 Beaver City	.0830 Alta
.0590 Box Elder County	.0590 San Juan County
.0645 Brigham City, Perry, Willard	.0625 Blanding
.0690 Snowville	.0590 Sanpete County
.0625 Cache County	.0620 Ephraim, Gunnison, Mt. Pleasant
.0650 Cache Valley Transit, Hyde Park, Lewiston, Millville	.0590 Sevier County
.0655 Hyrum, Logan, N.Logan, Providence, Richmond, River Heights, Smithfield, Nibley	.0600 Aurora, Redmond
.0590 Carbon County	.0620 Richfield
.0630 Price	.0630 Salina
.0620 Wellington	.0600 Summit County
.0690 Daggett County	.0740 Park City
.0645 Davis County	.0630 Snyderville Basin Transit
.0655 Bountiful, Centerville	.0590 Tooele County
.0590 Duchesne County	.0620 Erda, Grantsville, Lakepoint, Lincoln, Stansbury Park
.0630 Roosevelt	.0630 Tooele City
.0590 Emery County	.0640 Uintah County
.0770 Green River	.0665 Naples
.0690 Garfield County	.0670 Vernal
.0790 Boulder, Panguitch, Tropic	.0620 Utah County
.0800 Bryce Canyon	.0645 Alpine, American Fork, Cedar Hills, Highland, Lehi, Lindon, Mapleton, Payson, Pleasant Grove, Provo, Provo Canyon, Salem, Spanish Fork, Springville
.0590 Grand County	.0655 Orem
.0780 Moab	.0590 Wasatch County
.0590 Iron County	.0620 Heber
.0600 Cedar City	.0700 Independence
.0780 Brian Head	.0730 Midway, Park City East
.0590 Juab County	.0590 Washington County
.0620 Nephi	.0620 Hurricane, Ivins, La Verkin, St. George, Santa Clara, Washington City
.0690 Kane County	.0750 Springdale
.0790 Kanab, Orderville	.0590 Wayne County
.0590 Millard County	.0680 Weber County
.0590 Morgan County	
.0590 Piute County	
.0590 Rich County	
.0690 Garden City	

29. Total Tax, Additions and Use Tax

Add lines 26, 27 and 28.

30. Utah Income Tax Withheld

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

- W-2, boxes 15 and 17
- 1099-MISC, boxes 16 and 17
- 1099-R, boxes 10 and 11
- Utah withholding shown on any other form 1099

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

NOTE: If a Utah employer identification number is not shown on forms W-2 in box 15, 1099-R in box 11, or

WORKSHEET FOR COMPUTING UTAH USE TAX

1. Total amount of purchases subject to use tax	\$ _____
2. Use tax rate (decimal from chart)	x _____
3. Multiply line 1 by line 2	\$ _____
4. Amount of purchases for grocery food included on line 1	\$ _____
5. Multiply line 4 by .02	\$ _____
6. Subtract line 5 from line 3	\$ _____
7. Credit for sales tax paid to another state	\$ _____
8. Use tax due (subtract line 7 from line 6)	\$ _____
Enter ZERO if less than ZERO	\$ _____

1099-MISC in box 17, the withholding on that form may be disallowed. Contact the employer or payer of the income to obtain the Utah employer ID number and write it on the withholding form.

Nonresident Shareholder's Withholding Tax Credit is entered on TC-41A, Part 5, using code 43, and should **NOT** be entered on this line.

31. Credit for Utah Fiduciary Tax Prepaid

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

32. Amended Returns Only (Previous Payments)

This line is **only** for amended returns. When filing an amended return, enter the total amount of tax paid with the original return and any subsequent payments of the tax prior to filing this amended return.

33. Refundable Credits

Keep all related documents with your records. You may be asked to furnish this information later to verify a credit entered on your Utah return.

To claim any of the following refundable credits, complete TC-41A, Part 5 and attach it to your Utah return. On TC-41A, write the **code and amount** of each refundable credit you are claiming. Carry the sum of all refundable credits to line 33. An explanation of each refundable credit is listed below.

Codes for Refundable Credits

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

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

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

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

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

(40) Targeted Business Tax Credit (UC §63M-1-504)

NOTE: An individual may not claim this credit in a year the individual claims the enterprise zone credit (non-apportionable nonrefundable credit, code 07) or the recycling market development zone tax credit (non-apportionable nonrefundable credit, code 10).

A refundable credit is available to businesses providing a community investment project as defined in UC §63M-1-501 through §63M-1-503. Obtain a certified copy of form TC-40TB, Targeted Business Income Tax Credit. Keep this form and all related documents with your records.

Contact the Governor's Office of Economic Development, 324 S State St., Suite 500, SLC, UT 84111, telephone (801) 538-8775, goed.utah.gov/incentives/enterprise_zones for additional information.

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

If you are a Utah nonresident shareholder of an S corporation, you are entitled to a credit for any Utah income tax withheld and paid by the S corporation on your behalf.

Enter the amount of the withholding credit claimed. Also, enter the federal identification number of the S corporation in the space provided on TC-41A. If you have Utah withholding credits from more than one S corporation, enter the federal identification number of the S corporation for which you are claiming the largest amount of withholding. Also enter an "X" in the box on line 3 of form TC-41.

Keep federal Schedule K-1 issued by the corporation and all related documents with your records. You may be asked to furnish this information later to verify a credit entered on your Utah return.

Do not include Nonresident Shareholder's Withholding Tax Credit with the withholding tax on line 30.

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

Enter the total of the mineral production tax withheld as shown on forms TC-675R or federal Schedule K-1(s) for 2008.

Attach copies of form TC-675R or federal Schedule K-1 to the return to receive proper credit. (Attach these forms with other W-2 and 1099 forms.)

(47) Agricultural Off-Highway Gas/Undyed Diesel Credit (UC §59-13-202)

There is no form for this credit. Keep all related documents with your records.

The credit is 24.5 cents per gallon only for motor fuel and undyed diesel fuel purchased in Utah to operate

stationary farm engines and self-propelled farm machinery used solely for commercial nonhighway agricultural use that was taxed at the time of purchase.

Activities that DO NOT qualify for this credit include, but are not limited to, the following: golf courses, horse racing, boat operations, highway seeding, vehicles registered for highway use, hobbies, farming for personal use, etc.

Credit calculation:

Gallons _____ x .245 = Credit _____

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

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

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

34. Total Withholding and Refundable Credits

Add lines 30 through 33.

35. Tax Due

If the total tax amount on line 29 is greater than the total withholding and refundable credits amount on line 34, subtract line 34 from line 29. This is the tax you owe. **Complete the TC-549 coupon on page 19 and include it with your payment.**

36. Penalty and Interest

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

PENALTIES: The penalty for failure to file a tax due return by the due date is a percentage of the unpaid tax, based on the number of days late. The penalty for failure to pay tax due as reported on a timely filed return is a percentage of the tax due, based on the number of days late. Details for calculating these penalties can be found at tax.utah.gov/billing/penaltyinterest.html and in Pub 58, Utah Penalty and Interest, available at tax.utah.gov/forms. Include these penalties on line 36, if applicable.

The penalty for underpayment of an extension prepayment is 2 percent per month of the unpaid tax during the extension period. If the return is not filed

by the extension due date, failure to file and failure to pay penalties will apply, as if the extension had not been granted. Include this penalty on line 36, if applicable.

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

INTEREST: Calculate interest due from the due date (April 15, 2009) to the date paid using the 2009 rate of **5 percent** (or applicable rate if after 2009). Include this interest on line 36, if applicable.

37. Pay this Amount

Add together any penalty and interest you owe and entered on line 36 to the tax on line 35, and enter the total on line 37. This is the total amount you should remit with your return. **Complete the TC-549 coupon on page 19 and include it with your payment.**

PAYMENT OPTIONS

You may pay tax online with your credit card or with an electronic check (ACH debit) from your checking account. Each online payment is subject to a service fee.

To pay online, go to paymentexpress.utah.gov and follow the step-by-step instructions.

You may also mail your check or money order payable to the Utah State Tax Commission with your return. Be sure to write your social security number or EIN, daytime telephone number, and "2008 TC-41" on your check. DO NOT STAPLE check to return. Remove the check stub before sending. DO NOT MAIL CASH with your return. The Tax Commission assumes no liability for loss of cash placed in mail. Include the TC-549 coupon on page 19 with your payment. Mail your payment, coupon and return to Utah State Tax Commission, 210 N 1950 W, Salt Lake City, UT 84134-0250.

ALLOW AT LEAST 90 DAYS FOR YOUR RETURN TO BE PROCESSED.

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

A payment agreement does not stop the accrual of penalty and interest. If you do not pay in full by the return due date, whether or not you request a payment agreement, any balance due will be subject to penalty and interest and a lien may be filed to secure the debt.

A billing notice for the full amount due, including penalty and interest, will be mailed to you. Upon receiving

this notice, you must pay the total amount due, unless you request a payment agreement by completing and mailing form TC-804B, completing the Utah Online Payment Agreement at tax.utah.gov/billing/payment.html, or calling 801-297-7703 or, if outside the Salt Lake area, 1-800-662-4335 ext. 7703. If you do not receive confirmation of your payment plan within 45 days, please call us.

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

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

38. Refund

If the total withholding and refundable credits amount on line 34 is greater than the total tax amount on line 29, subtract line 29 from line 34. This is your refund.

39. Refund Applied To 2009 Taxes

You may apply all or part of your refund shown on line 38 as a prepayment for your 2009 Utah fiduciary tax liability. Enter the amount of refund you want applied to your 2009 tax on this line. Any part of the refund not applied to your 2009 tax liability will be refunded to you (unless you have other outstanding government obligations). Once made, this election cannot be changed.

Completing the Return

Signature

The return must be signed by the fiduciary or an officer representing the estate or trust. Failure to sign the return will delay any refund you are due.

Paid Preparer Authorization

If the fiduciary wants to allow the Tax Commission to discuss their 2008 Utah return with the paid preparer who signed it, enter an "X" in the box on the right side of the signature area of the return where indicated. This authorization applies only to the individual whose signature appears in the Paid Preparer Section of the return. It does not apply to the firm, if any, shown in that section.

If you enter an "X" in the box, the fiduciary is authorizing the Tax Commission to call the paid preparer to answer any questions that may arise during the processing of the return. The paid preparer is also authorized to:

- Give the Tax Commission any information that is missing from the return,
- Call the Tax Commission for information about the processing of the return or the status of any refund or payment(s), and
- Respond to certain Tax Commission notices about math errors, offsets, and return preparation.

The fiduciary is not authorizing the preparer to receive any refund, bind the entity to anything (including any additional tax liability), or otherwise represent the entity before the Tax Commission. If the fiduciary wants to expand the preparer's authorization, complete and submit to the Tax Commission form TC-737, Power of Attorney and Declaration of Representative. Form TC-737 is available on our website at tax.utah.gov/forms.

The authorization will automatically end no later than the due date (without regard to extensions) for filing the entity's 2009 tax return. If you wish to revoke the authorization before it ends, submit your request in writing to the Utah State Tax Commission, attention Taxpayer Services, 210 N 1950 W, SLC, UT 84134.

Paid Preparer Requirements

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

Preparer Penalties

The person who prepares, presents, procures, advises, aids, assists or counsels another on a return, affidavit, claim or similar document administered by the Tax Commission, and who knows or has reason to believe it may understate a tax, fee or charge is subject to both a civil penalty (\$500 per document) and criminal penalties (second degree felony with a fine from \$1,500 to \$25,000). See UC §59-1-401(9) and (10) for specific details.

Instructions for TC-41B – Non or Part-year Resident Estate or Trust Income Schedule

Follow these steps to calculate your Utah tax.

1. Complete form TC-41, page 1, through line 23.
2. Complete form TC-41B, Non or Part-Year Resident Estate or Trust Income Schedule.
3. On line 16 of your TC-41B, divide the total on line 15 column A by the total on line 15 column B. Enter the resulting decimal rounded to four decimal places. Do not enter an amount greater than 1.0000.
4. On line 17 of your TC-41B, enter the tax from your TC-41, page 1, line 23.
5. On line 18 of your TC-41B, multiply the tax you entered on line 17 by the decimal on line 16. This is your Utah tax for a nonresident or part-year resident estate or trust.
6. Transfer the tax from line 18 of your TC-41B to line 24 on page 2 of your TC-41.
7. Complete page 2 of your TC-41.

Attach a copy of form TC-41B to your Utah return. Do not attach a copy of your federal return. Also, keep a copy of form TC-41B and your federal return with your records.

Instructions for TC-41C – Bankruptcy Estate Schedule

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

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

Utah Instructions. A trustee or debtor-in-possession of a bankruptcy estate (chapter 7 or chapter 11) must file form TC-41, Utah Fiduciary Income Tax Return, and attach a completed TC-41C, Bankruptcy Estate Schedule. Leave lines 4 through 20 of the TC-41 blank. Line 21 of the TC-41 is the tax calculated on the TC-41C, line 16 or line 20, whichever is applicable. Then complete lines 22 through 39 of the TC-41 according to the regular fiduciary instructions.

The estate's tax liability is determined by completing the TC-41C with information and calculations similar to the Utah TC-40, Individual Income Tax Return. When completing the TC-41C, the following limitations apply:

- The Utah personal exemption is limited to 75% of a single federal personal exemption amount, or \$2,625.
- The estate is limited to the standard deduction for a married taxpayer filing separately of \$5,450, or if greater, the itemized deductions claimed on the federal form 1040 (which is attached to the federal fiduciary return, form 1041).

1. Federal Adjusted Gross Income

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

2. Additions to Income

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

3. Add lines 1 and 2

Enter the total of line 1 and line 2.

4. Deductions from Income

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

5. Modified Adjusted Gross Income

Subtract line 4 from line 3.

6. Tax Calculation

Multiply the modified adjusted gross income on line 5 by 5% (.05).

Taxpayer Tax Credit (lines 7 - 15) (UC §59-10-1018)

7. Personal Exemption Deduction

A bankrupt estate is allowed an exemption amount of \$2,625.

8. Standard or Itemized Deductions

Enter \$5,450 (standard deduction) or your federal itemized deductions from Schedule A, if greater.

9. State Income Tax Itemized on 2008 Federal Schedule A

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

10. Add Lines 7 and 8, then Subtract Line 9

First add the amount on line 7 and line 8, then subtract the amount on line 9 from this total.

11. Multiply the Amount on Line 10 by .06

Multiply the amount on line 10 by 6 percent (.06).

12. Base Phase-out Amount

The base phase-out amount for a bankrupt estate is \$12,000.

13. Subtract Line 12 from Line 5

Subtract the base phase-out amount on line 12 from the modified adjusted gross income on line 5.

14. Multiply Line 13 by .013

Multiply the amount on line 13 by 1.3 percent (.013). This is the credit phase-out amount.

15. Taxpayer Tax Credit

Subtract the phase-out amount on line 14 from the initial credit on line 11. If the result is less than zero, enter "0".

16. Utah Income Tax

Subtract the taxpayer tax credit on line 15 from the tax calculated on line 6. If the result is less than zero, enter "0".

FULL-YEAR UTAH RESIDENT BANKRUPT ESTATE

– Enter the tax from line 16 on line 21 of TC-41 and then complete the rest of the return.

NON OR PART-YEAR RESIDENT BANKRUPT ESTATE

– Complete lines 17 through 20 on the TC-41C. Enter the tax from line 20 on line 21 of TC-41 and then complete the rest of the return.

Non or Part-year Resident (lines 17 - 20)

If filing for a nonresident or part-year resident bankruptcy estate, complete form TC-40B and attach it to the TC-41 return. Instructions are found in the TC-40 tax booklet.

Follow these steps to calculate your Utah tax.

1. Complete form TC-41C through line 16.
2. Complete form TC-40B, Non or Part-Year Resident Utah Income Schedule, only through line 32. This form can be found in the Utah Individual Income Tax booklet or on the website at tax.utah.gov/forms.
 - a. TC-40B, Column A – Utah Income and Adjustments: Enter in column A (lines 1 through 16) all income or (loss) earned or received from Utah sources while not a Utah resident, plus all income or (loss) earned or received from all sources while a Utah resident (even if not from a Utah source). Enter each adjustment (lines 17 through 31) applicable to Utah income.

b. TC-40B, Column B – Federal Income and Adjustments: Enter in column B (lines 1 through 16) the total income or (loss) from all sources as reported on your federal return, as noted on the TC-40B. Enter the adjustments (lines 17 through 31) claimed on your federal return, as noted on the TC-40B.

c. TC-40B, Line 32:

- Calculate the amount on line 32 column A and carry this amount to TC-41C, line 17.
- Calculate the amount on line 32 column B and carry this amount to the TC-41C, line 18.

3. Enter on line 19 of your TC-41C, the result of dividing the amount on line 17 by the amount on line 18. Enter the resulting decimal rounded to four decimal places. Do not enter an amount greater than 1.0000.
4. Enter on line 20 of your TC-41C, the result of multiplying the tax you entered on line 16 by the decimal on line 19. This is your Utah tax. Enter this tax on line 20 of TC-41C and on line 21 of your TC-41. Then complete the remainder of your TC-41.

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

Qualified Funeral Trust Information and Instructions

Who Must File

The trustee of a trust that has elected to be taxed as a qualified funeral trust (QFT) files federal Form 1041-QFT to report the income, deductions, gains, losses, etc., and income tax liability of the QFT. The trustee can use the state Form TC-41 to file for a single QFT, or for multiple QFTs having the same trustee following the instructions under Composite Return on this page.

Pre-need funeral trusts that do not qualify as QFTs should use the regular instructions for Utah Form TC-41, Utah Fiduciary Income Tax Return.

Qualified Funeral Trust

A QFT is a domestic trust that meets all of the following requirements:

- It arose as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services.
- The sole purpose of the trust is to hold, invest and reinvest funds in the trust and to use those funds solely to pay for funeral or burial services or property to provide such services for the benefit of the beneficiaries of the trust.
- The only beneficiaries are individuals for whom such services or property is to be provided at their death under the contracts described above.
- The aggregate contributions to the trust on behalf of any single beneficiary do not exceed \$7,000 and are made by or for the benefit of such beneficiaries.
- The trustee makes or previously had made the election to treat the trust as a QFT.
- If the QFT election had not been made, the trust would have been treated as owned by the purchasers of the contracts under the grantor trust provisions of the Internal Revenue Code. However, a trust that is not treated as owned by the purchaser solely because of the death of an individual shall be treated as meeting this requirement during the 60-day period beginning on the date of that individual's death.

If a QFT has multiple beneficiaries, each beneficiary's separate interest under a contract is treated as a separate QFT for the purpose of figuring the tax and filing this return. Each beneficiary's share of the trust's income is determined in accordance with the beneficiary's interest in the trust.

Whenever these instructions refer to a trust or QFT, it includes such separate interests that are treated as separate QFTs.

Contribution Limit

To determine whether a trust meets the \$9,000 contribution limit, you must determine not only whether there have been contributions in excess of \$9,000, but also whether, over the anticipated life of the trust, it is expected to receive contributions in the future that exceed the contribution limit. Projected contributions are based on existing contributions, the applicable state law trust contribution requirements, and any expected contributions in excess of the state law requirements. You must make this determination at the inception of the trust and at any time the amount of the projected contributions changes. A trust that is determined at its inception not to exceed the contribution limit, but that exceeds the limit in a future year due to a change in projected contributions, will be deemed to exceed the contribution limit at the time of the change in projected contributions.

Making the Election

The trustee makes the election to treat a trust as a QFT by filing federal Form 1041-QFT by the due date (including extensions).

Composite Return

A trustee may file a single, composite Utah Form TC-41 for all QFTs of which he or she is the trustee, including QFTs that had a short tax year. Attach a schedule to the composite Utah Form TC-41 that includes the following information for each QFT (or separate interest treated as a separate QFT).

- The name of the owner or the beneficiary. If you list the name of the owner and that trust has more than one beneficiary, you must separate the trust into shares held by the separate beneficiaries. The same information used on the federal Form 1041-QFT can be used in computing the state tax.
- The type and gross amount of each type of income earned by the QFT for the tax year. For capital gains, identify separately the amount of net short-term capital gain, net long-term capital gain, 28% rate gain, and unrecaptured section 1250 gain.
- The type and amount of each deduction and credit allocable to the QFT.
- The tax and payments made for each QFT.
- If the QFT was terminated during the year, give the date of the termination.

Specific Instructions

The line-by-line instructions should be followed with the exception of the computation of tax. Attach to the TC-41, schedules that include the number of QFTs.

Composite Return. If this is a composite return, the same information and schedules used on the federal Form 1041-QFT can be used in computing the state tax. Figure the taxable income separately for each QFT using each QFT's share of the amounts on the lines referred to in Composite Return on page 18.

Tax Computation. A separate schedule should be used to calculate the tax for each QFT using the 5% tax rate for each QFT. Enter the sum of the tax for all QFTs on line 14.

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

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Tax year

2008

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TC-549
Rev. 12/08

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

**FID
008**

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