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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

2009

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.

When to File and Pay

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

1. By April 15, 2010, if you file on a 2009 calendar year basis (tax year ends December 31, 2009); or
2. By the 15th day of the fourth month after the fiscal year ends, if you file on a fiscal year basis. If the due date falls on Saturday, Sunday or legal holiday, the due date is the next business day.

All Utah income taxes for the year 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 2.)

Extension of Time to File

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

You automatically get an extension of up to six months to file your return without filing a form. However, penalties will be assessed if you have not met the prepayment requirements by the original due date (see next paragraph). See Penalties and Interest instructions on page 2. All extension returns must be filed by October 15, 2010.

Prepayment Requirements for Filing Extension

All prepayments are due by the original due date.

You must prepay:

- 90% of the 2009 tax due;
- 100% of the 2008 Utah tax liability as indicated on the 2008 Utah Fiduciary Income Tax Return; or
- 90% of the 2009 tax due if you did not have a tax liability in 2008 or this is your first year filing.

You may prepay through withholding (W-2, TC-675R, etc.), payments applied from a previous year, tax credits and credit carryovers, or payment made by the tax due date using form TC-548, *Fiduciary Income Tax Prepayment Coupon*. Interest is assessed on unpaid tax from the filing due date until the tax is paid in full. Penalties may also apply.

Where to File

Mail your return and any payment (with TC-549 *Fiduciary Income Tax Return Payment Coupon*) to:
Utah State Tax Commission
210 N 1950 W
SLC, UT 84134-0250

What to Attach and What to Keep

Include the following with your TC-41 and also keep a copy with your tax records.

- **Withholding Forms:** Enter withholding tax information on TC-41W and submit with your return. **Do not attach** any forms W-2, 1099-R, 1099-MISC, etc., or TC-675R (showing mineral withholding tax). Keep all withholding forms with your tax records for future reference. If you do not complete the TC-41W with all required information, processing your return may be delayed and your withholding credit may be disallowed.
- **Utah Schedules:** Attach all applicable schedules (TC-41A, TC-41B, TC-41C, TC-41G, TC-41S, and TC-41W).
- **Other Adjustments:** Attach an explanation for any equitable or fiduciary adjustment entered on TC-41A, Part 1 code 62 or code 69, or Part 2 code 79 or code 87.
- **Other Utah Forms:** Attach a copy of Utah TC-40LIS if you are a building project owner of a low-income housing unit.
- **Tax Due:** If you have an amount due on the return, submit form TC-549, *Fiduciary Income Tax Return Payment Coupon*, and your check or money order along with the return.

Do not send a copy of your federal return, credit schedules (other than TC-41S and TC-41W), worksheets, or other documentation with your Utah return. Keep these, along with any receipts, to support entries reported on your return. You may be asked to furnish this information later to verify entries on your Utah return.

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 the decedent's death 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 exists. The taxable year cannot be longer than 12 months and must coincide with the tax year selected for filing the federal return. You must use the same accounting methods used for federal fiduciary income tax purposes for Utah fiduciary income tax purposes.

Rounding Off to Whole Dollar Amounts

Round off cents to the nearest whole dollar. Round down if under 50 cents; round up if 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.

Penalties

Utah law (UC §59-1-401) provides penalties for failing to file tax returns by the due date, paying tax due on time, making sufficient prepayment on extension returns, and filing information returns or supporting schedules. Details of these penalties, along with a list of additional penalties, are at tax.utah.gov/billing/penaltyinterest.html and in Pub 58, *Utah Interest and Penalties* (available at tax.utah.gov/forms). You may calculate penalties by using the online Penalty and Interest Calculator at tax.utah.gov/picalc.

Interest (In addition to any penalties due)

Interest is assessed on underpayments from the due date until the liability is paid in full. The interest rate for the 2010 is **3 percent**. Use the online Penalty and Interest Calculator at tax.utah.gov/picalc or follow the instructions in Pub 58, *Utah Interest and Penalties* available at tax.utah.gov/forms to help you.

Fiduciary and Estate Defined

The term fiduciary means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in a 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 another 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 where he or she intends to return after being absent. It is the place where 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 conditions 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.

See Tax Commission rules R865-91-2 and R884-24P-52 at tax.utah.gov/research/search.html for more information.

Resident Estate or Trust Defined

Resident estate or resident trust means:

1. An estate of a decedent who, at 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 death was domiciled in Utah; or
3. A trust administered in Utah. A trust is administered in Utah if:
 - a. The place where the fiduciary transacts a major portion of its administration of the trust is in Utah; or
 - b. The fiduciary’s usual place of business 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 forms and instructions for the year you are amending. You can get prior year forms and instructions at tax.utah.gov/forms.

Amend your return if:

- You discover an error on your Utah or federal return after it is 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. Contact the Tax Commission if you are unsure whether or not your Utah taxes are affected by an audit or adjustment.

To qualify for a refund or a credit, you must file an amended return within three years after 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, you must file your claim for refund or credit within two years after a Utah amended return had to be filed.

How to Amend a 2009 Utah Fiduciary Tax Return

- A. On page 1 of the Utah return in the “For Amended Return - Enter Code” box, enter the 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 or adjustment (attach a copy of the IRS adjustment).
- 4 You had a net operating loss. Utah treats net operating losses the same as the federal return. If your amended return is from a carry-back 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 28 of the 2009 amended return. If you paid with the original return or made subsequent tax payments before the amended return, enter the total previous payments on line 35 of the 2009 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 original return with your amended return.

Amounts Reportable as Utah Income by the Beneficiaries

Resident beneficiaries will report the income from the estate or trust included in the beneficiary's federal adjusted gross income to Utah as though the beneficiary received the income directly. The estate or trust residence 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 the distribution from Utah sources (see instructions for TC-41B).

Federal Form 8886

If you filed federal form 8886, *Reportable Transaction Disclosure Statement*, with the IRS, enter an "X" at the top right 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 estate or trust's federal employer identification number (EIN). If the estate or trust is filed with a social security number (SSN) instead of an EIN, check the space below this number.

Zip Code – Enter your zip code with the “plus four” at the end. This will assure accurate delivery of any refund or other correspondence the Tax Commission sends you.

Foreign Address – If your address is in a foreign country, enter the mailing address where indicated. Enter the foreign city, state/province and postal code in the city field. Enter only the foreign country name in the “Foreign Country” field.

1. Type of Return

Enter the code that describes the entity 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 (charitable trust).

Bankruptcy Estate See instructions on pages 17 and 18 on how to compute their Utah tax on the TC-41C.

Federal Form 1041-QFT See the general instructions on page 21 to file a Utah return.

Electing Small Business Trust (ESBT) 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.

2. Status of Estate or Trust

Enter the code “R” for a resident estate or trust, “N” for nonresident estate or trust, or “P” for part-year resident estate or trust. See 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 Utah resident, 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 in Utah and spends a total of 183 days or more of the taxable year in 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 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 TC-41:

- Leave lines 4 through 20 blank.
- Line 21, Utah income tax – enter the amount from TC-41C, line 18.
- For a resident bankrupt estate, complete lines 22 through 42 according to the regular fiduciary instructions.
- For a non or part-year resident bankrupt estate, complete lines 22 through 24 according to the regular fiduciary instructions, then follow the instructions for TC-41C, page 2 (see page 17).

5. Additions to Income

Enter the following additions to income on TC-41A, Part 1 and attach it to your Utah return. On TC-41A, Part 1, write the **code and amount** of each addition to income. Enter the sum of all additions to income on line 5 of your Utah TC-41. Each addition to income is explained below.

NOTE: Only include amounts that will not be passed through to the beneficiaries. You must apportion the additions to income between the income taxed at the trust level and the amounts distributed to the beneficiaries. Calculate the apportioned amount that must be added on this line as follows:

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

Codes for Additions to Income, TC-41 Part 1

- 51 Lump Sum Distribution
- 54 Utah Educational Savings Plan Withdrawal (UESP) Addback
- 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))**

This addition to income only applies if you filed form 4972 with your federal return.

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 form 4972, Part II, line 6.

**(54) Utah Educational Savings Plan (UESP) 529
Plan Addback (UC §59-10-202(1)(d))**

If you withdrew an amount from a Utah Educational Savings Plan (UESP) 529 account but did not spend it for qualified higher education costs, that amount must be added back to income to the extent the amount was deducted or used in calculating the UESP credit on the current or a previously filed tax return. A UESP account owner will receive form TC-675H, *Utah Educational Savings Plan Tax Statement of Contributions, Withdrawals, and Transfers*, 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 go to 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 government entities outside Utah are subject to Utah income tax if acquired on or after January 1, 2003. However, interest earned on non-Utah municipal bonds is not subject to Utah tax if the issuing state (or political subdivision) does not impose an income tax on bonds issued by Utah or the issuing state does not impose an income tax. See details at 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.

**(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 any fiduciary fees deducted on your federal form 1041, line 12.

8. Income Distribution Deduction

Enter any income distribution deduction 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 exemption deduction taken on your federal form 1041, line 20.

11. Deductions from Income

Enter the following deductions from income on TC-41A, Part 2 and attach it to your Utah fiduciary return. On TC-41A, Part 2, write the **code and amount** of each deduction from income. Enter the sum of all deductions from income on line 11 of your Utah TC-41. Each deduction from income is explained below.

NOTE: Only include amounts that apply to income taxed at the trust level. You must apportion the deductions from income between the amount taxed at the trust level and the amounts distributed to the beneficiaries. Calculate the apportioned amount that may be deducted on this line as follows:

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

Codes for Deductions from Income, 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. These obligations include:

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

The following income is **NOT** exempt from Utah income tax:

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

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

1. 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 where 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 vs Utah* (510 U.S. 399 (1994)) is exempt from Utah income tax on income earned on the reservation.

Enter the exempt income included in your federal taxable income on TC-41A, Part 2, using code 77. Enter your enrollment/census number and your Native/Tribe Code from the list below.

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 also cannot tax unemployment and sickness benefits from this source.

Railroad retirement pensions are deductible only for the amount taxed on the federal return. If you received pension payments, disability income or unemployment payments under the Railroad Retirement Act and must 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 paying double tax. Attach an explanation of any equitable adjustment claimed.

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

Enter the amount of any state tax refund you 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 became a resident trust on or after January 1, 2004;
2. No assets were held at any time after January 1, 2003 in another resident irrevocable trust created by the same settlor or the settlor's spouse;
3. The trustee is a trust company as defined in UC §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 buy 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.

12. Total Deductions

Add lines 7 through 11.

13. Utah Taxable Income

Subtract line 12 from line 6. If the results is zero or less, enter "0." This amount is used to calculate the tax on line 14.

14. Utah Tax

Multiply the Utah taxable income on line 13 by 5% (.05) and enter the result on line 14.

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

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

15. Allowable Deductions for Credit

Use the following worksheet to calculate the trust's allowable deductions. See line instructions below the worksheet.

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.

Worksheet Line Instructions:

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

16. Initial Credit before Phase-out

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

17. Base Phase-out Amount

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

18. Income Subject to Phase-out

Subtract line 17 (the base phase-out amount) from line 13 (Utah taxable income). If the result is zero or less, enter "0."

19. Phase-out Amount

Multiply line 18 by 1.3% (.013). 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 zero or less, 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 zero or less, enter "0."

Bankruptcy Estates. Enter the tax calculated on TC-41C, line 19. See bankruptcy estate instructions on page 17.

22. Enter Tax from Line 21

Enter the tax from page 1, line 21.

23. Apportionable Nonrefundable Credits

Claim the following apportionable nonrefundable credits (credits that must be apportioned for nonresidents and part-year residents) on TC-41A, Part 3 and attach it to your Utah return. On TC-41A, Part 3, write the **code and amount** of each credit you are claiming. Enter the sum of all credits on line 23 of your Utah return. Each apportionable nonrefundable credit is explained below.

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

**Codes for Apportionable Nonrefundable Credits,
TC-41A Part 3**

- 04 Capital Gain Transactions Credit
- 20 Utah Educational Savings Plan (UESP) Credit
- 24 Qualifying Solar Project Credit

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

You 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 gross proceeds of the transaction are used to buy stock in a qualified Utah small business corporation within 12 months from when the capital gain transaction occurred; and

- c. You did not have an ownership interest in the qualified Utah small business corporation at the time of investment.

See incometax.utah.gov/credits_capitalgains.php or refer to UC §59-10-1022 for more information.

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

Use the following calculation to determine your credit.

Calculation of Capital Gain Transactions Tax Credit	
1. Eligible short-term or long-term capital gain	\$ _____
2. Multiply line 1 by 5% (.05). This is your credit.	\$ _____
Enter this amount on TC-41A, Part 3, using code 04.	

Note: Any credit that is more than the tax liability may not be carried back or forward.

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

If a qualified contribution was made to your Utah Educational Savings Plan (UESP) 529 account, you may claim a nonrefundable credit. To qualify, the contribution must be made during the taxable year and not deducted on your federal return. The credit is 5% of the contribution made per beneficiary in the tax year or \$1,740 per individual beneficiary, whichever is less.

A UESP account owner will receive form TC-675-H, *Utah Educational Savings Plan Tax Statement of Contributions, Withdrawals, and Transfers*, from UESP. Use the qualified amount from line 1 of form TC-675H to calculate the credit.

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

Use the following calculation to determine your credit.

Calculation of UESP Tax Credit	
1. Eligible amount for credit from line 1 of form TC-675H	\$ _____
2. Multiply line 1 by 5% (.05). This is your UESP credit.	\$ _____
Enter this amount on TC-41A, Part 3, using code 20.	

Note: Any credit that is more than the tax liability may not be carried back or forward.

(24) Qualifying Solar Project Credit (UC §59-10-1024)

You may claim a credit equal to 25% of the amount paid to buy one or more solar units from a qualifying political subdivision (as defined UC §59-10-1024), up to a maximum credit of \$2,000. This is in addition to any other energy credit you claim.

A qualifying solar unit is a portion of the electrical output of an active solar project constructed, controlled or owned by a qualifying political subdivision, which generates electricity furnished to and for the benefit of one or more residential units, and is sold to the taxpayer in exchange for credit on the taxpayer's electric bill.

Use the following calculation to determine your credit.

Calculation of Qualifying Solar Project Credit	
1. Amount paid for solar unit(s)	\$ _____
2. Multiply line 1 by 25% (.25)	\$ _____
3. Maximum allowable credit	<u>\$2,000</u>
4. Enter lesser of line 2 or line 3. This is your credit.	\$ _____
Enter this amount on TC-41A, Part 3, using code 24.	

Note: Any credit that is more than the tax liability may be carried forward as a credit for the next four years.

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

Contact your city or electrical utility provider or refer to UC §59-10-1024 for more information.

24. Subtract line 23 from line 22

Apportionable nonrefundable credits cannot exceed the tax liability on the return. If the total of the credits shown on line 23 is more than or equal to the tax on line 22, enter "0."

NON OR PART-YEAR RESIDENT ESTATE OR TRUST – Complete TC-41B before continuing with line 25.

25. Enter Applicable Tax

Full-year resident estate or trust: Enter the tax from line 24.

Non or part-year resident estate or trust: Complete the TC-41B, lines 1 through 18. Enter the tax amount from line 24 of your TC-41 on line 17 of the TC-41B. Calculate line 18 of the TC-41B, then enter that tax on line 25 of TC-41, page 2. Complete the balance of the TC-41.

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

26. Nonapportionable Nonrefundable Credits

Claim the following nonapportionable nonrefundable credits on TC-41A, Part 4 and attach it to your Utah return. On TC-41A, Part 4 write the **code and amount** of each credit you are claiming. Enter the sum of these credits to line 26 of your return. Each nonapportionable nonrefundable credit is explained below.

Keep all related documents, including credit forms, with your records. You may have to give this information later to verify a credit claimed on your return.

Codes for Nonapportionable Nonrefundable Credits, TC-41A Part 4

02 Qualified Sheltered Workshop	10 Recycling Market
03 Carryover of 05 or 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)

Cash contributions made in 2009 to a qualified Utah nonprofit rehabilitation sheltered workshop facility for persons with disabilities are eligible for the credit. 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 the lesser of \$200 or 50% of the total cash contributions.

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.**

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

Note: Any credit that is more than the tax liability may not be carried back or forward.

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

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

If you claimed a renewable energy systems tax credit on your 2005 or 2006 Utah fiduciary return, and the tax credit was more than your tax liability for the year, the excess credit may be carried over to the next four years. If you have any credit that was not used in a subsequent year, and are using it in 2009, enter that amount 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 is approved. Do not send form TC-40V with your return. Keep the form and all related documents with your records.

Four different credits are available. The credit may only be claimed once per vehicle. You receive a credit for:

1. \$750 if you bought a new vehicle with less than 7,500 miles, and registered and titled for the first time in Utah. The vehicle must meet the following fuel economy standards:

- At least 31 miles per gallon for gasoline-fueled vehicles;
- At least 36 miles per gallon for diesel-fueled vehicles;
- At least 19 miles per gallon for vehicles fueled by a blend of 85% ethanol and 15% gasoline;
- At least 19 miles per gallon for liquefied petroleum gas-fueled vehicles; or
- Meet standards consistent with 40 C.F.R. 600.209-95(d) that are adopted by the Air Quality Board by rule.

2. The lesser of \$2,500 or 35% of the purchase price for a qualified vehicle fueled by compressed natural gas and registered in Utah.
3. The lesser of \$2,500 or 50% of the cost of conversion equipment (less any clean fuel grant received) for a vehicle registered in Utah. The equipment must convert the engine to:
 - Be fueled by propane, compressed natural gas, or electricity;
 - Be fueled by another fuel as effective as the above listed fuels, as determined by the Air Quality Board; or
 - Meet the clean fuel vehicle standards in the federal Clean Air Act.
4. The lesser of \$1,000 or 50% of the cost of conversion equipment not designed or used primarily for the transportation of persons or property, including maintenance equipment, less any clean fuel grant received, if the equipment converts the engine to be:
 - Fueled by propane, compressed natural gas, or electricity;
 - Be fueled by another fuel determined by the Air Quality Board as effective as the above listed fuels; or
 - Substantially more effective in reducing air pollution than the fuel for which the engine was originally designed.

Note: Any credit that is more than the tax liability may be carried forward as a credit for the next five years.

Contact the Division of Air Quality, 150 N 1950 W, SLC, UT 84116, 801-536-4000, or go to www.airquality.utah.gov/Planning/Mobile/Clean_Fuel_Tax_Credit.htm for more 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 is 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 to restore any residential certified historic building.

Note: Any credit that is more than the tax liability may be carried forward as credit for next five years.

Contact the State Historic Preservation Office, 300 S Rio Grande St., SLC, UT 84101, 801-533-3500, or go to history.utah.gov/historic_buildings/financial_assistance/index.html for form TC-40H, certification, and more information.

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

NOTE: You may not claim this credit or carry it into the same year you claim the recycling market development zone credit (nonapportionable nonrefundable credit, code 10) or the targeted business income tax credit (refundable credit, code 40).

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

Note: Any credit that is more than the tax liability may be carried forward as a credit for the next three years.

If you are a allocated enterprise zone credit from your ownership in a partnership or S corporation, your credit must be based on your ownership percentage.

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

Contact the Governor's Office of Economic Development, 324 S State St., Suite 500, SLC, UT 84111, 801-538-8804; or go to goed.utah.gov/incentives/enterprise_zones for more information.

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

This credit is determined by the Utah Housing Corporation for owners of a low-income housing project who also received part of the federal low-income housing tax credit. When this credit applies, the project owner will provide you form TC-40TCAC (issued by the Utah Housing Corporation).

If you share in this credit, get 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, 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 to the return form TC-40LIS, *Credit Share Summary of Low-Income Housing Project*.

Note: Any credit that is more than the tax liability may be carried as a credit back three years or forward for the next five years.

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

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

NOTE: You may not claim this credit or carry it into the same year you claim the enterprise zone credit (non-apportionable 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 is approved. Do not send form TC-40R with your return. Keep the form and all related documents with your records.

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

Note: Any credit that is more than the tax liability may be carried forward as a credit for the next three years.

Contact the Governor's Office of Economic Development, 324 S State St, Suite 500, SLC, UT 84111, 801-538-8804; or go to goed.utah.gov/relocate/incentives/incentives-recycling_zones for more information.

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

The credit is:

1. 5% of your qualified expenses for increasing research activities in Utah above a base amount,
2. 5% of certain payments made to a qualified organization increasing basic research in Utah above a base amount, and
3. 6.3% of your qualified research expenses for a taxable year beginning in 2009.

Note: Any credit for 1 or 2 above that is more than the tax liability may be carried forward as a credit for the next 14 taxable years. Any credit for 3 above may not be carried forward.

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

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

The credit is:

1. 6% of the cost of machinery and equipment used primarily to conduct qualified research in Utah for 12 or more consecutive months, and

2. 6% of the cost of machinery and equipment donated to a qualified organization and used primarily to conduct basic research in Utah for 12 or more consecutive months.

Note: Any credit that is more than the tax liability may be carried forward as a credit for the next 14 taxable years.

If machinery or equipment for which this credit was claimed is used for less than 12 consecutive months for qualified research, an amended return must be filed for the year the credit was claimed, the credit deleted from the return, and any increase in tax paid. See amended return instructions on page 2.

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

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

If you are a Utah estate or trust with income that is taxed by Utah and another state(s), the District of Columbia, or a possession of the United States, you may be entitled to a credit for the amount of tax paid to the other state(s). Nonresident estates and trusts do not qualify for this credit.

You may only claim credit on the portion of income:

1. Taxable in Utah,
2. Taxed also by the other state(s), and
3. Included in "Column A - Utah" income on form TC-41B.

Complete and attach form TC-41S, *Credit for Fiduciary Income Tax Paid to Another State*. If there are two or more states, use separate calculations for each state. Carry the sum of the credits from line 7 to TC-41A, Part 4, using code 17.

Do not use the state income tax withheld from form W-2 as the tax paid to the other state. You must complete and file the other state's return to determine the tax amount paid.

Keep a signed copy of the other state's return and all related documents with your records. You may be asked to give additional information later to verify this credit.

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

Get form TC-40E, *Renewable Residential and Commercial Energy Systems Tax Credits* from the Utah Geological Survey with their certification stamp, verifying the credit is 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 to a Utah residential unit. Additional residential energy systems or parts may be claimed in following years as long as the total amount claimed does not exceed \$2,000 per residential unit. If the residence is sold to a non-business entity before claiming the tax credit, you may irrevocably transfer the right to the tax credit to the new owner. The principal portion of system's lease payments may qualify for the credit if the lessor irrevocably transfers the right to the tax credit to the new owner.

Note: Any credit that is more than the tax liability may be carried forward as a credit for the next four years.

Contact the Utah Geological Survey (UGS), 1594 W North Temple, Box 146100, SLC, UT 84114-6100, 801-537-3300, or go to geology.utah.gov/sep/incentives/index.htm for more information.

27. Subtract Line 26 from line 25

Nonapportionable nonrefundable credits cannot exceed your tax liability. If the total credits on line 26 is more than or equal to the tax on line 25, enter "0".

28. Amended Returns Only Previous Refund

This line is **only** for amended returns. Enter the total amount of all refunds, credits, or offsets of state income tax received for the tax year being amended. Do not include refund interest.

29. Utah Use Tax

You must pay use tax on all taxable items bought for storage, use or consumption in Utah during the filing year, if sales and use tax was not paid to the seller at the time of purchase. This includes Internet or catalog purchases.

You may take a credit for sales or use tax paid to another state (but not a foreign country). If the other state's tax rate is lower than Utah's, you must pay the difference. If the other state's tax rate is more than Utah's, no credit or refund is given. If sales tax was paid to more than one state, complete the worksheet (on page 12) for each state. Add lines 8 on all worksheets and enter the total on line 29.

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

Grocery food bought through the Internet or catalog is taxed at 3%. The grocery food must be 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. See Tax Commission Publication 25 at tax.utah.gov/forms for more information.

Enter use tax of \$400 or less. If the amount is over \$400, you must get a sales and use tax license and pay the use tax on a sales and use tax return.

Worksheet for Computing Utah Use Tax on Line 29	
1. Amount of purchases (except grocery food) subject to use tax	\$ _____
2. Use tax rate (decimal from chart)	x . - - - -
3. Multiply line 1 by line 2	\$ _____
4. Amount of grocery food purchases subject to use tax	\$ _____
5. Multiply line 4 by .03	\$ _____
6. Add line 3 and line 5	\$ _____
7. Credit for sales tax paid to another state on use tax purchases	\$ _____
8. Use tax due (subtract line 7 from line 6) <i>If less than zero, enter "0"</i>	\$ _____

Use Tax Rate Chart (Effective Dec. 31, 2009)

.0595 Beaver County	.0685 Salt Lake County
.0695 Beaver City	.0835 Alta
.0595 Box Elder County	.0595 San Juan County
.0650 Brigham City, Perry, Willard	.0630 Blanding
.0695 Snowville	.0635 Monticello
.0630 Cache County	.0595 Sanpete County
.0655 Cache Valley Transit, Hyde Park, Lewiston, Millville	.0625 Ephraim, Gunnison, Mt. Pleasant
.0660 Hyrum, Logan, N.Logan, Providence, Richmond, River Heights, Smithfield, Nibley	.0595 Sevier County
.0595 Carbon County	.0605 Aurora, Redmond
.0635 Price	.0625 Richfield
.0625 Wellington	.0635 Salina
.0695 Daggett County	.0605 Summit County
.0650 Davis County	.0745 Park City
.0660 Bountiful, Centerville, Woods Cross, West Bountiful	.0635 Snyderville Basin Transit
.0595 Duchesne County	.0595 Tooele County
.0605 Duchesne City	.0625 Erda, Grantsville, Lakepoint, Lincoln, Stansbury Park
.0635 Roosevelt	.0635 Tooele City
.0595 Emery County	.0645 Uintah County
.0775 Green River	.0670 Naples
.0695 Garfield County	.0675 Vernal
.0795 Boulder, Panguitch, Tropic	.0650 Utah County
.0805 Bryce Canyon	.0675 Alpine, American Fork, Eagle Mountain, Highland, Lehi, Lindon, Mapleton, Payson, Pleasant Grove, Provo, Provo Canyon, Salem, Saratoga Springs, Spanish Fork, Springville
.0595 Grand County	.0685 Cedar Hills, Orem
.0785 Moab	.0595 Wasatch County
.0595 Iron County	.0625 Heber
.0605 Cedar City	.0705 Independence
.0785 Brian Head	.0735 Midway, Park City East
.0595 Juab County	.0595 Washington County
.0625 Nephi	.0625 Hurricane, Ivins, La Verkin, St. George, Santa Clara, Washington City
.0695 Kane County	.0755 Springdale
.0795 Kanab, Orderville	.0595 Wayne County
.0595 Millard County	.0685 Weber County
.0595 Morgan County	.0705 Riverdale
.0595 Piute County	
.0595 Rich County	
.0695 Garden City	

30. Total Tax, Additions and Use Tax

Add lines 27, 28 and 29

31. Utah Income Tax Withheld

You **MUST** enter your **UTAH TAX WITHHELD** on this line. Utah tax withheld is shown 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

Complete TC-41W, Part 1 listing each W-2 and 1099 with Utah withholding tax. The total Utah withholding tax on the TC-41W, Part 1 must equal the amount entered on line 31. If you have more than four withholding forms, use additional TC-41Ws. See instructions for TC-41W on page 20.

Keep withholding forms with your records. Processing may be delayed or the withholding tax credit disallowed if you do not complete the TC-41W, Part 1 with all required information.

Note: If there is no Utah employer identification number on forms W-2 box 15, 1099-R box 11, 1099-MISC box 17, or any other 1099 form, your refund may be reduced or the tax due increased. Contact the employer or payer of the income to get the Utah employer ID number.

32. Credit for Utah Fiduciary Tax Prepaid

Prepayments include payments you made with form TC-548, *Fiduciary Income Tax Prepayment Coupon*, and any amount of the previous year's refund applied to your current tax liability.

33. Pass-through Entity Taxpayer's Withholding Tax Credit (UC §59-10-1103)

You get credit for any Utah income tax withheld or paid on your behalf by a pass-through entity to which you belong. Enter the withholding tax claimed on TC-41W, Part 3 and bring the total over to line 33. Also, enter the federal identification number of each pass-through entity withholding Utah tax on the TC-41W, Part 3.

Keep federal Schedule K-1 (or supplemental schedule) issued by the pass-through entity and all other related documents with your records. Do not attach them to your Utah return. Processing may be delayed or the withholding tax credit disallowed if you do not complete the TC-41W, Part 3 with all required information.

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

List any Utah mineral production withholding tax from TC-675R or federal Schedule K-1 (or supplemental schedule) on TC-41W, Part 2. Total your entries on TC-41W, Part 2 and enter this total on your TC-41, page 2, line 34.

The mineral production company must provide the following information to you:

- The company's federal employer identification number (EIN),
- The company's Utah mineral production withholding account number, and
- Your share of the mineral production withholding tax.

Keep all TC-675Rs and federal Schedule K-1(s) (or supplemental schedules) with your records. Processing may be delayed or the withholding tax credit disallowed if you do not complete the TC-41W, Part 2 with all required information.

35. Amended Returns Only Previous Payments

Use this line **only** for amended returns. Enter the total tax paid with the original return plus any later tax payments for the tax year being amended. Do not include on this line any penalty, interest or fees paid on the previous return.

36. Refundable Credits

Claim the following refundable credits on TC-41A, Part 5 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 36 of your return. Each refundable credit is explained below.

Keep all related documents, including credit forms, with your records. You may have to give this information later to verify a credit entered on your Utah return.

Codes for Refundable Credits - TC-41A Part 5

- | | |
|----|---|
| 39 | Renewable Commercial Energy System Credit |
| 40 | Targeted Business 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)

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 hydro-energy system, or a passive solar system. Credit is also allowed for a commercial system that uses wind, geothermal electricity, or biomass equipment.

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

Contact the Utah Geological Survey (UGS), 1594 W North Temple, Suite 3110, Box 146100, SLC, UT 84114-6100, 801-537-3300, or go to geology.utah.gov/sep/incentives/index.htm for more information.

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

Note: You may not claim this credit the same year you claim the enterprise zone credit (nonapportionable nonrefundable credit, code 07) or the recycling market development zone tax credit (nonapportionable nonrefundable credit, code 10).

A credit is available to businesses providing a community investment project as defined in UC §63M-1-501 through 63M-1-503. Get 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, 801-538-8804, or go to goed.utah.gov/incentives/enterprise_zones for more information.

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

You may claim a credit of 24.5 cents per gallon for motor fuel and undyed diesel fuel bought in Utah to operate stationary farm engines and self-propelled farm machinery used solely for commercial nonhighway agricultural use if the fuel was taxed at the time it was bought.

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, personal farming, etc.

Credit calculation:

Gallons _____ x .245 = Credit _____

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

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

This refundable credit is 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.

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

37. Total Withholding and Refundable Credits

Add lines 31 through 36.

38. Tax Due

If line 30 is more than line 37, subtract line 37 from line 30. This is the tax you owe.

39. Penalty and Interest

If you are filing your return or paying any tax late, you may owe penalties and interest. Calculate your

penalty and interest by using the Penalty and Interest Calculator at tax.utah.gov/picalc or by following the instructions in Pub 58, *Utah Interest and Penalties* at tax.utah.gov/forms. The Tax Commission will send you a bill, if you do not pay the penalties and interest with your return, or the penalty and/or interest was calculated incorrectly.

PENALTIES: You may receive a penalty for not filing your return on time and for not paying any tax due on time. The penalties are a percentage of the unpaid tax, based on the number of days late. Instructions to calculate these penalties are found at tax.utah.gov/billing/penaltyinterest.html and in Pub 58, *Utah Interest and Penalties* at tax.utah.gov/forms. Include these penalties on line 39, if applicable.

A penalty for underpaying an extension prepayment is 2% of the unpaid tax per month of the extension period. If the return is not filed by the extension due date, failure to file and pay penalties will apply, as if the extension had not been granted. Include this penalty on line 39, if applicable.

There is no late filing penalty (including an amended return) if you have no tax due on the return.

INTEREST: Calculate interest from the due date (April 15, 2010) to the date paid. The 2010 rate is 3%. Include this interest on line 39, if applicable.

40. Pay this Amount

Add any penalty and interest you owe on line 39 to the tax on line 38. Pay this amount with your return. Include a TC-549 coupon (page 22) with your payment.

PAYMENT OPTIONS

You may pay your tax online with your credit card or with an electronic check (ACH debit). Each online payment may include a service fee. Follow the instructions at taxexpress.utah.gov.

You may also mail your check or money order payable to the Utah State Tax Commission with your return. Write your EIN or social security number, daytime phone number, and "2009 TC-41" on your check. DO NOT STAPLE check to return. Remove any check stub before sending. DO NOT MAIL CASH with your return. The Tax Commission is not liable for cash lost in the mail. Include the TC-549 coupon on page 22 with your payment. Mail your payment, coupon and Utah return to Utah State Tax Commission, 210 N 1950 W, Salt Lake City, UT 84134-0250.

IF FILING A PAPER RETURN, ALLOW AT LEAST 90 DAYS FOR YOUR RETURN TO BE PROCESSED.

PAYMENT AGREEMENT REQUEST

If you cannot pay the full amount you owe, you may request a pay plan by calling the Tax Commission at 801-297-7703, or if outside the Salt Lake area 1-800-

662-4335, ext. 7703, or by completing form TC-804B, *Payment Agreement Request*, at tax.utah.gov/forms.

Pay plan requests will be considered after your return is processed. If accepted, you will receive a letter stating the terms and conditions of the agreement. A pay plan does not stop penalty and interest from accruing and we may still file a tax lien to secure the debt.

You may make payments prior to approval of the pay plan or prior to receiving a billing notice.

41. Refund

If line 37 is more than line 30, subtract line 30 from line 37. This is your refund.

42. Refund Applied To 2010 Taxes

You may apply all or part of your refund as a prepayment for your 2010 Utah fiduciary tax liability. Enter the amount of refund you want applied to your 2010 tax on this line. Any part not applied to your 2010 tax liability will be refunded to you (unless you have other outstanding government obligations). This election cannot be changed.

Completing the Return

Signature

The fiduciary or an officer representing the estate or trust must sign the return. Failing to sign the return will delay your refund.

Paid Preparer Authorization

If you want to allow the Tax Commission to discuss your 2009 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, you authorize the Tax Commission to call the paid preparer with questions that may arise while processing the return. You also authorize the preparer to:

- Give the Tax Commission any missing information 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.

You are not authorizing the preparer to receive any refund, bind you to anything (including any additional tax liability), or otherwise represent you before the Tax Commission. If you want to change the preparer's authorization, complete and submit form TC-737, *Power of Attorney and Declaration of Representative*. Form TC-737 is available at tax.utah.gov/forms.

The authorization automatically ends on the due date for filing the entity's 2010 tax return (without regard to extensions). If you want 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.

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 details.

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

Note: Bankruptcy estates do not use TC-41B. See instructions for TC-41C.

Follow these steps to calculate your Utah tax.

1. Complete form TC-41 through line 24.
2. Complete form TC-41B, *Non or Part-Year Resident Estate or Trust*.
3. On your TC-41B, line 16, 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 your TC-41B, line 17, enter the tax from your TC-41, page 2, line 24.
5. On your TC-41B, line 18, multiply the tax on line 17 by the decimal on line 16. This is your Utah nonresident or part-year resident estate or trust tax.
6. Transfer the tax from your TC-41B, line 18 to the TC-41, page 2, line 25.
7. Complete the rest of your TC-41.

Attach the form TC-41B to your Utah return. Keep a copy of form TC-41B 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 entity known as a bankruptcy estate. The trustee (for chapter 7 cases) or the debtor-in-possession (for chapter 11 cases) must prepare and file the estate's tax returns and pay 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. For purposes of the TC-41C, references made to federal form 1040 refer to the federal form 1040 that is attached as a schedule to federal form 1041 that the trustee or debtor-in-possession files on behalf of the bankruptcy estate with the Internal Revenue Service.

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 19.

- **Resident Bankruptcy Estate** – Complete lines 22 through 40 of the TC-41 according to the regular fiduciary instructions. Complete and attach only page 1 of TC-41C to your return; do not complete or attach TC-41C, page 2.
- **Nonresident or Part-year Resident Bankruptcy Estate** – Complete lines 22 through 24 of form TC-41 according to the regular fiduciary instructions. Then complete TC-41C, page 2 to calculate the Utah tax. Enter the apportioned tax from TC-41C, line 54 on TC-41, line 25. Attach both pages 1 and 2 of TC-41C to your return.

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*.

1. Federal Total Income

Enter the amount from line 22 of the bankruptcy estate's federal return, form 1040, attached to the federal fiduciary return, 1041.

2. Federal Adjustments to Income

Enter the amount from line 36 of the bankruptcy estate's federal return, form 1040, attached to the federal fiduciary return, form 1041.

3. Federal Adjusted Gross Income

Subtract line 2 from line 1. (This amount should equal the federal adjusted gross income shown on line 37 of the bankruptcy estate's federal return, form 1040, attached to the federal fiduciary return, form 1041.)

4. Additions to Income

Enter the code and amount of each addition to income. Codes and explanations for these additions to income are in the TC-40 tax return instruction booklet, page 5.

5. Add lines 3 and 4

Enter the total of line 3 and line 4.

6. Deductions from Income

Enter the code and amount of each deduction from income. Codes and explanations for these deductions from income are in the TC-40 tax return instruction booklet, page 6.

7. Utah Taxable Income

Subtract line 6 from line 5. If the result is less than zero, enter "0."

8. Tax Calculation

Multiply the Utah taxable income on line 7 by 5% (.05).

Taxpayer Tax Credit (lines 9 - 17) (UC §59-10-1018)

9. Personal Exemption Deduction

A bankrupt estate exemption is \$2,738.

10. Standard or Itemized Deductions

Enter \$5,700 (standard deduction) or the bankruptcy estate's federal itemized deductions from federal form 1040, Schedule A (if greater) attached to the federal fiduciary return, form 1041.

11. Add Lines 9 and 10

Add the amounts on line 9 and line 10.

12. State Income Tax Itemized on 2009 Federal Schedule A

Enter the amount, if any, of state income tax deducted on the bankruptcy estate's federal Schedule A, line 5 attached to the federal fiduciary return, form 1041. If you did not itemize your deductions on federal Schedule A, leave this line blank.

13. Subtract Line 12 from Line 11

Subtract the amount on line 12 from line 11.

14. Multiply the Amount on Line 13 by 6%

Multiply the amount on line 13 by 6% (.06). This is your initial taxpayer tax credit before phase-out.

15. Base Phase-out Amount

The base phase-out amount for a bankrupt estate is \$12,511.

16. Subtract Line 15 from Line 7

Subtract the base phase-out amount on line 15 from the modified adjusted gross income on line 7.

17. Multiply Line 16 by 1.3%

Multiply the amount on line 16 by 1.3% (.013). This is the credit phase-out amount.

18. Taxpayer Tax Credit

Subtract the phase-out amount on line 17 from the initial credit on line 14. If the result is less than zero, enter "0."

19. Utah Income Tax

Subtract the taxpayer tax credit on line 18 from the tax calculated on line 8. If the result is less than zero, enter "0."

FULL-YEAR UTAH RESIDENT BANKRUPTCY ESTATE Enter the tax from line 19 on TC-41, line 21 and then complete the rest of the TC-41 fiduciary return. Attach the TC-41C, page 1 to your fiduciary return. (Do not complete or attach TC-41C, page 2 to your return.)

NON OR PART-YEAR RESIDENT BANKRUPTCY ESTATE

Enter the tax from line 19 on TC-41, line 21. Complete lines 22 through 24 on the TC-41. Then complete TC-41C, page 2 to determine your apportioned Utah tax. Enter the tax from line 54 on TC-41C, page 2 on your TC-41, line 25 and then complete the rest of the TC-41 fiduciary return.

Non or Part-year Resident (lines 20 - 54)

If filing for a nonresident or part-year resident bankruptcy estate, complete form TC-41C, page 2 and attach it to the TC-41 return.

Follow these steps to calculate your Utah tax.

1. Complete form TC-41C through line 19.
2. Enter the tax from line 19 of TC-41C on line 21 of form TC-41.
3. Complete form TC-41, lines 22 through 24.
4. Complete form TC-41C, page 2.

a. Column A – Utah Income and Adjustments:
Enter on lines 20 through 35 all income (loss)

earned or received from Utah sources while not a Utah resident, plus all income (loss) earned or received from all sources while a Utah resident (even if not from a Utah source). Enter adjustments on lines 36 through 50 applicable to Utah income.

b. Column B – Federal Income and Adjustments:
Enter on lines 20 through 35 the total income (loss) from all sources you reported on your federal return, as noted on the TC-41C. Enter adjustments lines 36 through 50 claimed on your federal return, as noted on the TC-41C, page 2.

5. Calculate line 51 by subtracting line 50 from line 35 for both columns A and B. The total entered in Column B must agree with the total entered on TC-41C, page 1, line 3 (unless there is an entry on line 49 in Column B).
6. Divide the amount on line 51 Column A by the amount on line 51 Column B. Enter on line 52 the resulting decimal rounded to four decimal places. Do not enter a decimal greater than 1.0000.
7. Enter the tax amount from form TC-41, page 2, line 24 on your TC-41C, line 53.
8. Multiply the tax on line 53 by the decimal on line 52. This is your Utah tax. Enter this tax on line 54 of TC-41C and on form TC-41, line 25. Then complete form TC-41, lines 26 through 42.

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).

Instructions for TC-41G – Beneficiary Listing

You must attach to your Utah fiduciary return a TC-41G, *Beneficiary Listing*, showing all beneficiaries of the estate or trust. You must provide the Social Security Number (SSN) or Employer Identification Number (EIN), name, address and telephone number, and percent of Utah income (to four decimal places), for each beneficiary.

Complete and attach additional copies of the TC-41G, as needed.

Instructions for TC-41W – Utah Withholding Schedule

TC-41W, Part 1 Instructions

You must report Utah withholding tax from the following forms on the TC-41W, Part 1:

- Federal form W-2, Wage and Tax Statement
- Federal form 1099 (with Utah withholding) including 1099-R, 1099-MISC, 1099-G, etc.

Do not send W-2s or 1099s with your Utah return. Keep them in your files.

Processing may be delayed or the withholding tax credit disallowed if you do not complete the TC-41W with all required information.

To claim a credit for Utah withholding tax, complete TC-41W, Part 1. Enter the following information from form W-2 or 1099:

- Line 1 – Enter the employer/payer federal EIN (W-2 box “b,” or 1099).
- Line 2 – Enter the employer/payer Utah withholding account number (W-2 box 15, or 1099).
- Line 3 – Enter the employer/payer name (W-2 box “c,” or 1099).
- Line 4 – Enter an “X” if the income and withholding tax are from a form 1099.
- Line 5 – Enter the taxpayer’s social security number (W-2 box “a,” or 1099).
- Line 6 – Enter the Utah wages or income being reported (W-2 box 16, or 1099).
- Line 7 – Enter the Utah withholding tax (W-2 box “17,” or 1099).

Add the amounts of Utah withholding tax from all lines 7 and enter the total on form TC-41, page 2, line 31.

TC-41W, Part 2 Instructions

To claim credit for Utah mineral production withholding tax, enter the following information from TC-675R or Schedule K-1 (or supplemental schedule) on TC-41W, Part 2:

- Line 1 – Mineral producer’s federal EIN (TC-675R box 2, or from Schedule K-1).
- Line 2 – Mineral producer’s name (TC-675R box 1).
- Line 3 – Producer’s Utah withholding account number (TC-675R box 3).
- Line 4 – If the mineral withholding tax distribution was received from a pass-through entity (partnership or S corporation), enter the pass-through entity’s federal EIN. If you received a TC-675R directly from the mineral producer, leave this line blank.
- Line 5 – Mineral production withholding tax (TC-675R box 5) or your share of mineral production withholding tax reported on Schedule K-1 by a pass-through entity.

Add the amounts of mineral production withholding tax from all lines 5 and enter the total on form TC-41, page 2, line 34.

Do not send the TC-675Rs with your Utah return. Keep them in your files.

Processing may be delayed or withholding tax credit disallowed if you do not complete the TC-41W with all required information.

TC-41W, Part 3 Instructions

To claim credit for Utah withholding tax paid on your behalf by a pass-through entity (partnership or S corporation), enter the following information from your Schedule K-1 (or supplemental schedule) on TC-41W, Part 3:

- Line 1 – Pass-through entity’s federal EIN.
- Line 2 – Pass-through entity’s name.
- Line 3 – If the Utah withholding tax was passed through another entity before being passed to you, enter the original entity’s federal EIN. If the withholding tax was passed through only once (to you), leave this line blank.
- Line 4 – Utah withholding tax passed-through to you by the pass-through entity.

Add the amounts of pass-through entity Utah withholding tax from all lines 4 and enter the total on form TC-41, page 2, line 33.

Do not send the Schedule(s) K-1 (or supplemental sheets) with your Utah return. Keep them in your files.

Processing may be delayed or the withholding tax credit disallowed if you do not complete the TC-41W with all required information.

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 (QFT)

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

- It arose from a contract with a person who provides 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 trustee elects or previously elected to treat the trust as a QFT, and not as a grantor trust.
- If the QFT election had not been made, the trust would have been treated as owned by the contracts' purchasers under the IRC grantor trust provisions. However, a trust that is not 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 the day 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

Effective for tax years beginning after August 28, 2008, there is no contribution limit for a funeral trust.

Making the Election

The trustee elects 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 for which he or she is the trustee, including QFTs that had a short tax year. Prepare a schedule that includes the following information for each QFT (or separate interest treated as a QFT).

- The number of QFTs in the composite return.
- The owner or beneficiary's name. If the trust has more than one beneficiary, separate the trust into shares held by the separate beneficiaries. The same information used on the federal Form 1041-QFT can be used to compute the state tax.
- The type and gross amount of income earned by the QFT. For capital gains, identify the 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 terminated during the year, give the termination date.

You can use the same information and schedules from the federal Form 1041-QFT to compute the state tax. Figure the taxable income separately for each QFT using each QFT's share of the amounts.

Attach the composite return schedules to your TC-41 if you are filing your QFT return on paper. A QFT cannot file electronically through the Tax Commission's Tax Express website.

Tax Computation

Follow the line-by-line instructions except for computing the tax. Use a separate schedule 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.

Utah State Tax Commission

Fiduciary Income Tax Return Payment Coupon

TC-549
Rev. 12/09

USE OF PAYMENT COUPON

If you have a tax due balance on your Utah fiduciary income tax return and you have previously filed your return (either electronically or by paper) without a payment, include the payment coupon below with your check or money order, to insure proper credit to your account.

Do **NOT** mail another copy of your fiduciary income tax return with this payment. Sending a duplicate of your return may delay posting of the payment.

If you are sending a payment with your Utah fiduciary income tax paper return, include the payment coupon below with your check or money order, to insure proper credit to your account.

Do not use this payment coupon for prepayment of future fiduciary taxes. Use form TC-548.

HOW TO PREPARE THE PAYMENT

Make your check or money order payable to the Utah State Tax Commission. Do not send cash. The Tax Commission does not assume liability for loss of cash placed in the mail.

Print the name of the estate or trust, address, federal EIN, daytime telephone number and the year the payment is for on your check or money order.

SENDING PAYMENT COUPON

If sending this payment coupon separate from your fiduciary income tax return, do **NOT** mail another copy of your return with this payment. Sending a duplicate of your return may delay posting of the payment.

Complete and detach the payment coupon below.

Do not attach (staple, paper clip, etc.) the check or money order to the payment coupon.

Send the payment coupon and payment to:

Utah State Tax Commission
210 N 1950 W
Salt Lake City, UT 84134-0250

ELECTRONIC PAYMENT

You may pay your tax due electronically at the website taxexpress.utah.gov.

If you need an accommodation under the Americans with Disabilities Act, contact the Tax Commission at 801-297-3811 or Telecommunication Device for the Deaf 801-297-2020. Please allow three working days for a response.

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

Fiduciary Income Tax Return Payment Coupon

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

TC-549
Rev. 12/09

Tax year ending 2009

USTC Use Only

Name of estate or trust	FEIN or SSN of estate or trust
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Address

City	State	Zip code
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Payment amount enclosed \$	00
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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.

FID 008

Utah State Tax Commission

Fiduciary Income Tax Return Payment Coupon

TC-549
Rev. 12/09

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TC-549
Rev. 12/09

Tax year ending 2009

USTC Use Only

Name of estate or trust	FEIN or SSN of estate or trust
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Address		
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City	State	Zip code
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Payment amount enclosed \$	00
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