

# Utah State Tax Commission Tax and Revenue



# Utah State Tax Commission

- Monthly webinars of various tax topics.
- Ability to access the recording and presentation after the event.
- Free to all attendees.



# Utah State Tax Commission Monthly Webinars

[tax.utah.gov/training/webinars](https://tax.utah.gov/training/webinars)

## Tax Webinars & Videos

Each month, the Tax Commission holds live public webinars on various tax topics, with access to the recording after the event. We'll also add other training items here as needed. The links will appear below as they're available.

All webinars are held on the third Thursday of each month and begin at **10:00 a.m.**

Category/Tax Type

Date	Title	Category/Tax Type	Links
Jan 19, 2023	What's new this filing season for income tax	Individual Income Tax	<a href="#">MP4</a>   <a href="#">PDF</a>
Feb 16, 2023	Sales Tax licensing requirements and application process	Sales Tax	<a href="#">MP4</a>   <a href="#">PDF</a>
Mar 16, 2023	Who needs to file a Utah Income Tax return?	Individual Income Tax	<a href="#">MP4</a>   <a href="#">PDF</a>
Apr 20, 2023	Sales Tax rates and how to remit taxes	Sales Tax	<a href="#">MP4</a>   <a href="#">PDF</a>
May 18, 2023	Income Tax residency, domicile and special instructions	Individual Income Tax	
Jun 15, 2023	Basics of what is taxable and what is exempt from Sales Tax	Sales Tax	
Jul 20, 2023	Income Tax Audit / Exam Process	Tax Audits	
Aug 17, 2023	Sales and Use Tax on Goods Consumed	Sales Tax	
Sep 21, 2023	Taxpayer Access Point (TAP)	Taxpayer Access Point (TAP)	



# Income Tax Residency, Domicile & Special Instructions



# Who Must File

- You must file a Utah TC-40 return if you:
  1. are a Utah resident or part-year resident who must file a federal return,
  2. are a nonresident or part-year resident with income from Utah sources who must file a federal return, or
  3. want a refund of any income tax overpaid.
- To file a Utah return, first complete your federal return, even if you do not have to file with the IRS. You need the federal return information to complete your Utah return.



# Definition of Domicile

- Domicile is being a lawful permanent resident in a certain jurisdiction. A person can remain domiciled in a jurisdiction even after they have left it, if they have maintained sufficient links with that jurisdiction or have not displayed an intention to leave permanently.



# Utah Definition of a Resident

- A resident is a person who is domiciled in Utah for any period during the taxable year, but only for the duration of that period.



# Utah Domicile (Utah Code §59-10-136)

- 3 tests for Utah Domicile
- Qualifications to not have domicile in Utah
- Domicile for Spouses
- Special Instructions





# Domicile Test 1

- You are domiciled in Utah if:
  1. You or your spouse claimed a child tax credit (IRC §24) for a dependent on your federal tax return, and the dependent is enrolled in a Utah public K-12 school.
    - This does not apply if you are the dependent's noncustodial parent and are divorced from, or were never married to, the custodial parent.
  2. You or your spouse were enrolled as a resident student in a Utah state institution of higher education.



# Domicile Test 2

- There is a rebuttable presumption you are domiciled in Utah (i.e., you are domiciled in Utah unless you can prove otherwise) if you or your spouse:
  1. claims a residential exemption for a primary residence under UC §59-2, Property Tax Act,
  2. voted in Utah during the taxable year and were not registered to vote in another state during that time, or
  3. file a Utah income tax return as a full-year or part-year resident.



# Utah Supreme Court Case

- Buck v Tax Commission
  - “Taxpayers are not statutorily barred from having a meaningful opportunity to rebut the presumption.”
  - “In applying these rather orthodox principles of domicile, courts look to a multiplicity of factors including, but most certainly not limited to the places where the individual exercises civil and political rights, pays taxes, owns real and personal property, has driver’s and other licenses, maintains bank accounts, belongs to clubs and churches, has places of business or employment, and maintains a home for his [or her] family”



# Domicile Test 3

- Under Test 3, whether you have a permanent home in Utah is based on a preponderance of the evidence (i.e., the evidence you have a permanent home is more convincing than any evidence you do not), taking into consideration all of the following facts and circumstances:
  - You or your spouse has a Utah driver's license.
  - You or your spouse claims a federal tax credit (IRC §24) for a dependent who is enrolled as a resident student in a Utah state institution of higher education.



# Domicile Test 3 - Continued

- The nature and quality of the living accommodations you or your spouse has in Utah compared to another state.
- You have a spouse or dependent in Utah for whom you or your spouse claims a federal tax credit under IRC §24.
- The physical location where you or your spouse earns income.
- The state of registration of a vehicle owned or leased by you or your spouse.
- You or your spouse has a membership in a church, club or similar organization in Utah.



# Domicile Test 3 - Continued

- You or your spouse lists a Utah address on mail, a telephone listing, a listing in an official government publication, other correspondence, or similar item.
- You or your spouse lists a Utah address on a federal or state tax return.
- You or your spouse claims Utah residency on a document (other than a Utah income tax return) filed with or provided to a court or other government entity.
- You or your spouse fails to obtain a permit or license normally required of a resident in the state where you claim to have domicile.



# Domicile Test 3 - Continued

- You are the noncustodial parent of a dependent enrolled in a Utah public K-12 school for which you claimed a child tax credit (IRC §24) on your federal tax return, and you are divorced from the custodial parent.
- You maintain a place of abode in Utah and spent 183 or more days of the taxable year in Utah.
- You or your spouse did not vote in Utah during the taxable year but voted in Utah in any of the three prior years and was not registered to vote in another state during those three years.



# No Utah Domicile

- You do not have Utah domicile if you are absent from Utah for at least 761 consecutive days and during this time you or your spouse:
  1. do not return to Utah for more than 30 days in a calendar year,
  2. do not claim a child tax credit under IRC §24 on your federal tax return for a dependent who is enrolled in a Utah public K-12 school (unless you are a noncustodial parent of the dependent and are divorced from the custodial parent),
  3. are not enrolled in a Utah state institution of higher education as a resident student,
  4. do not claim the residential exemption for property tax on your primary residence in Utah, or
  5. do not claim Utah as your tax home for federal tax purposes.





# No Utah Domicile - Continued

- An absence from the state begins on the later of the date you or your spouse leaves Utah and ends on the day you or your spouse returns to and stays in Utah for more than 30 days in a calendar year.
- If you do not have Utah domicile, you may choose to have Utah domicile by filing a Utah resident income tax return.



# Spouse

- If your spouse has Utah domicile under Test 1, you also have Utah domicile. If your spouse has Utah domicile under Test 2 or 3, you also have Utah domicile unless you can establish by a preponderance of the evidence (i.e., the evidence for your claim is more convincing than any evidence against it) that during the taxable year and the three prior years you did not:
  1. own property in Utah,
  2. spend more than 30 days in a calendar year in Utah,
  3. receive earned income for services performed in Utah,
  4. vote in Utah, or
  5. have a Utah driver's license.



# Spouse - Continued

- You are not considered to have a spouse with Utah domicile if:
  1. you and your spouse are legally separated or divorced, or
  2. you and your spouse both claimed married filing separately on your federal individual income tax returns for the taxable year.



# Domicile Test – Example 1

- Federal return- Filing married-joint with no dependents
  - Husband - Lived and worked in Texas
    - Registered to vote in Texas
    - Texas issued driver's license and registered a vehicle in Texas
  - Wife – Lived and worked in Utah
    - Utah issued driver's license and registered a vehicle in Utah
  - Wife paid resident tuition at a Utah public university
  - Couple owned a home together in Utah and claimed the primary residential exemption



# Domicile Test – Example 1

- Federal return- Filing married-joint with no dependents
  - Husband - Lived and worked in Texas
    - Registered to vote in Texas
    - Texas issued driver's license and registered a vehicle in Texas
  - Wife – Lived and worked in Utah
    - Utah issued driver's license and registered a vehicle in Utah
  - Wife paid non-resident tuition at a Utah public university
  - Couple owned a home together in Utah and claimed the primary residential exemption



# Domicile Test – Example 1

- Federal return- Filing married-joint with no dependents
  - Husband - Lived and worked in Texas
    - Registered to vote in Texas
    - Texas issued driver's license and registered a vehicle in Texas
  - Wife – Lived and worked in Utah
    - Utah issued driver's license and registered a vehicle in Utah
  - Wife paid non-resident tuition at a Utah public university
  - Wife owns a home in Utah and claimed the primary residential exemption



# Special Instructions

- If one spouse is a full-year Utah resident and the other is a full-year nonresident, they may file separate Utah income tax returns even if they file a joint federal return. The nonresident spouse is not required to file a Utah return unless they have Utah income.
  - NOTE: If either you or your spouse is a part-year resident, you may not use Special Instructions.



# Special Instructions – Active Duty Military

- Active duty military members may also be eligible for special instructions if they meet the rules outlined in publication 57 *Military Personnel Instructions*





# Special Instructions - Example

- Federal Return:
  - Married filing joint with 3 dependents
  - Adjusted Gross Income of \$100,000
  - Standard deduction of \$25,900
- Resident Spouse filing special instructions:
  - Adjusted Gross Income of \$40,000

$$\mathbf{\$40,000/\$100,000 = 40\%}$$

- Married Joint - Utah
  - AGI - \$100,000
  - Dependent deduction - \$5,406
  - Standard deduction - \$25,900

- Special Instructions
  - AGI - \$40,000
  - Dependent deduction - \$2,162
  - Standard deduction - \$10,360



# Nonresident Filing Exemption

- You do not need to file a Utah return if:
  1. you are a nonresident whose only Utah source of income is from a partnership, S corporation or trust (or other pass-through entity);
  2. the partnership, S corporation, trust or other pass-through entities withheld Utah income tax on your Utah income; and
  3. you are not claiming a Utah tax credit.



# Utah State Tax Commission Resources

Contact Us	
Practitioner Hotline	801-297-7790 or 1-800-662-4335 ext. 7790
Customer Service – payment processing & liens	801-297-2200 or 1-800-662-4335
Taxpayer Resources Unit – basic tax questions	801-297-7705 or 1-800-662-4335 ext. 7705
TAP Support	801-297-3996 or 1-800-662-4335 ext. 3996 Email: <a href="mailto:tapsupport@utah.gov">tapsupport@utah.gov</a>
Taxpayer Advocate Service	801-297-7562 or 1-800-662-4335 ext. 7562
Email	<a href="mailto:taxmaster@utah.gov">taxmaster@utah.gov</a>
Online Resources	
Tax Commission Website	<a href="http://tax.utah.gov">tax.utah.gov</a>
Forms and Publications	<a href="http://tax.utah.gov/forms">tax.utah.gov/forms</a>
Online Services (TAP)	<a href="http://tap.utah.gov">tap.utah.gov</a>
Tax Practitioner Information	<a href="http://tax.utah.gov/taxpros">tax.utah.gov/taxpros</a>
Individual Income Tax	<a href="http://incometax.utah.gov">incometax.utah.gov</a>
Tax Training	<a href="http://tax.utah.gov/training">tax.utah.gov/training</a>



THANK YOU

