

Utah State Tax Commission

210 North 1950 West, Salt Lake City, UT 84134

Hours: Monday through Thursday 7am - 6pm, closed Friday

web site: <http://tax.utah.gov>

Taxes: Sales & Use; Resort, Individual Income, Withholding - Annual Reconciliation, Corporate & Partnership, Cigarette & Tobacco, Motor and Special Fuel, Motor Vehicle & Fees, Municipal Telecom, Property Taxes, Severance Tax on Oil, Gas and Mining, Mineral Production, Miscellaneous Taxes

Online Services:

“Withholding Express” <https://tax.utah.gov/w-2/>; file withholding returns and pay withholding taxes. This service replaces the previous W-2 filing system.

Tax Express: <http://taxexpress.utah.gov/>

Income Taxes; File individual Income Taxes. Check income tax refund status. Payment Express. Pay taxes using a credit card or eCheck. Penalty & Interest Calculator. Calculate tax penalties & interest.

Corporate/Partnership Taxes File corporate or partnership returns using Modernized Electronic Filing (MeF) One Stop Business Registration, Take care of most registration requirements in one location. Penalty & Interest Calculator. Calculate tax penalties & interest. Each domestic and foreign corporation (unless exempted) shall pay an annual corporate franchise tax for the privilege of doing business in the state. The tax is 5% of the Corporations Utah taxable income. The minimum tax to be paid is \$100.

Payment Express. Pay taxes using a credit card or eCheck

Sales Taxes File a basic sales tax return

Sales Taxes Pay sales taxes by EFT (ACH debit or credit). One must register to use this service. Withholding Taxes File & pay Utah withholding taxes, Impounded

Motor Vehicle Services: Locate and retrieve a towed vehicle, Motor Carriers IFTA, IRP and SFU Filing, Payments, Personalized License Plates, Check the availability of a personalized plate, Renewal Express Online Vehicle Renewal

Motor Vehicle Dealer Services:

Other related sites: Income taxes, DMV, MVED, Motor Carriers, Property Taxes; centrally assessed by the USTC or locally assessed by the County

Auditing Division of the State Tax Commission

Field or Office Audit by Auditing Division; (Taxpayer Bill of Rights)

1. Opening Conference 2. Division Conference 3. Preliminary Notice

Statutory Notice: Following the completion of an audit, the taxpayer will receive a statutory notice unless full payment is received on the Preliminary Notice. The statutory notice is a legal and binding assessment of the taxpayer's tax liability.

Appeals to the Tax Commission; If a taxpayer does not agree with the figures, amounts and/or adjustments proposed on the Statutory Notice, the taxpayer must submit an appeal in writing within the 30 day time frame. If an appeal is not filed with the Tax Commission's Appeals Unit within the required 30 days, the Statutory Notice becomes a final assessment and full payment is due.

To file an appeal, a Petition for Redetermination must be submitted. This is a legal notice of intent to appeal an administrative action by a division of the Utah State Tax Commission

The taxpayer should submit a Petition for Redetermination in a letter, or use Tax Commission Form TC738, available online or at a Tax Commission office;

If an appeal is filed, what then customarily follows is a Status Conference; Informal Hearing; then possibly a Formal Hearing; or Mediation at an earlier stage.

Mediation Process To request mediation in a Tax Commission appeal, contact the Appeals Unit at (801) 297-2280

If a Petition for Redetermination is not filed or full payment is not received within 30 days of the Statutory Notice, the case is referred to the Taxpayer Services Division of the Tax Commission for collection action.

Criminal Investigation The State Tax Commission has a criminal investigation unit to prosecute those who willfully evade Utah's tax laws. This unit, trained in the detection of tax fraud, receives information from the Tax Commission's Auditing Division and other sources, and determines whether under payments of tax may constitute a pattern of criminal fraud by individuals or businesses.

This effort is aided by the Utah Attorney General's office, which has dedicated a full-time attorney to prepare and prosecute criminal tax cases in the state courts.

Taxpayer Services Division

Billing and Collection: (Publications)

Pub 2 Utah Taxpayer Bill of Rights

Pub 17 Waivers, Reasonable Cause

Pub 22 Offer in Compromise

Pub 36 Property Tax Abatement, Deferral and Exemption Programs for Individuals
(Property Tax Division & Commission)

What is a tax lien?

If a person neglects or refuses to pay a tax administered by the Tax Commission the tax plus additional penalty and interest is an assessed lien in favor of the State, upon all property and rights to property, both real and personal, belonging to that person. U.C.A. 59-1-302.1

To notify the public of that assessment and lien, the Tax Commission may issue a notice (warrant) to the district court and upon docketing (recording) the notice, it becomes a civil judgment. The judgment is further notice of an assessment and tax against the person's real or personal property located in the county of the district court the judgment is filed in. Pursuant to U.C.A. Section 78B-5-508 state and local taxes are an "allowable claim against exempt property." Code Section 78B-5-202 (7) (a) outlines that judgments become a lien upon real property, only if recorded in the office of the county recorder. Note: "State agencies are exempt from the recording requirement of Subsection (7)(a)."

The lien is a public document and lists the delinquent taxpayer's personal and/or business name, the tax type and amount owed at the time the lien is filed. A state tax assessment and lien has the same force and effect of a court judgement. A state tax lien, officially called a "Warrant for Delinquent Taxes," allows personal property (such as automobiles, business equipment, etc.) and real property to be attached and sold if necessary to satisfy the delinquent tax. Examples: "garnishment" or "asset seizure."

If a person or business has entered into a payment agreement with the Tax Commission, a lien may be filed to secure that debt. If the payments are made as agreed, no action will be taken on the lien. Once a lien has been filed, the amount due listed on the lien is not altered to reflect subsequent payments or subsequent assessments added on to the taxpayer's delinquency.

Example: if a \$5,000 tax due is listed on a lien, a credit report a year later would still reflect the same amount, even if the taxpayer had reduced the tax liability to \$500, or the taxpayer had incurred an additional tax debt in excess of \$5,000.

Lien arises at time of assessment: U.C.A. 59-1-3-2.1 (2); "Unless another date is specifically fixed by law, the lien imposed by this section for unpaid taxes arises at the time the assessment is made and continues until the liability for the assessed amount, or a judgment against the taxpayer arising from that liability, is satisfied or becomes unenforceable because of lapse of time."

Business Responsible Officer - Trust Fund Taxes

Responsible Officer(s) liability: (RS Lien) Individuals who control the finances of a corporation, limited liability company (LLC), limited liability partnership (LLP), partnership, or any other business entity may be held liable for that entity's failure to collect and remit trust fund taxes.

Trust fund taxes are monies that an entity is required to collect or withhold on behalf of the State of Utah. Withholding tax is a trust fund as is Sales tax.

If a business entity fails to collect and remit withholding taxes, Utah Code Section 59-1-302 allows the Tax Commission to assess a penalty of 100 percent of the unpaid trust fund taxes on any responsible individual within the business entity. Assessment of the penalty may result in the Tax Commission filing an assessment and lien for delinquent taxes. If a lien is filed, it carries the same force as a court judgment against personal or real property of the responsible individual.

A responsible individual is one who, at the time of the tax delinquency, had the power to direct the collection, accounting, or remittance of withholding trust funds to the Tax Commission. A responsible individual can be: an officer, director, or shareholder of a corporation; another corporation or partnership; a partner in a partnership a lender; an employee of a corporation, partnership or proprietorship; a court appointed trustee; an individual who had significant control over the finances of a business; an individual who had significant control over which creditors would be paid.

The following actions or activities are looked at to determine if an individual is responsible: Sign checks, payroll, tax returns; hire and fire employees; total or partial control of voting stock; determine which creditors get paid.

Several sources of information will be researched and investigated in determining which individuals are responsible. These resources will be used by the Tax Commission to ensure that trust funds are protected and amounts due are collected in a fair, responsible, and efficient manner:

Business Successor Liability: The Tax Commission is allowed to issue an assessment and liability against a successor in business, pursuant to U.C.A. Section 59-12-112. The statutory notice and subsequent tax imposed by this chapter is a lien upon the property of any person who sells out his business or stock of goods or quits business. Such person shall complete the return provided for under Section 59-12-107, within 30 days after the date the business or stock of goods is sold or the party quits business. Such persons successor in business shall withhold enough of the purchase money to cover the amount of taxes due and unpaid until the former owner produces a receipt from the Commission showing that the taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or stock of goods fails to withhold such purchase money and taxes are due and unpaid after the 30-day period allowed, he is personally liable for the payment of the taxes collected and unpaid by the former owner.

Utah State Tax Commissioners

Commission Chair; Pam Hendrickson; (4 members with four year terms)
Commissioners; R. Bruce Johnson, Marc B. Johnson, D'Arcy Dixon Pignanelli

Executive Director; Rodney G. Marrelli; Deputy Director Barry Conover

Appeals Unit: 801.297.2280

Hearing Officers: Jane Phan, Pam Marshall, Kerry Chapman, Clint Jensen
Process: Status Conference; Mediation (option), Informal Hearing; Formal Hearing

Agency Divisions

Auditing Division: Craig Sandberg Director; Scott Smith Dep. Director, Frank Hales
Asst. Director, Shelley Robinson Asst. Director.

Property Tax Division: Denny Lytle Director, Lee Stephens Dep. Director
Processing Division:

Motor Vehicle Division; Brad Simpson Director, David Swan Dep. Director
Motor Vehicle Enforcement Division; Kent Jorgensen Director, Kip Ingersoll Dep. Dir.

Taxpayer Services Division (297.6300): Dee Talbot Director, Stan Allen Dep. Director

* Waivers, Offer in Compromise; Jeff Christiansen Supervisor 297.6209

* Bankruptcy Unit: General Line 297.6219; Joe Caldiero Supervisor 297.6222;

*Chapter 13 Sue Jensen 297.6227 Miralee Kelsey 297.6269

*Chapter 11 Ryan Jensen (A-G) 297.6232 Jeff Paulsen (H-Z)297.6347

*Chapter 7 Ryan Jensen (asset cases)

Agency Legal Representation

Utah Attorney General Office
Tax and Business Division
160 East 300 South, Fifth Floor
P.O. Box 140874
Salt Lake City, Utah 84114-0874

Division phone number: 801.366.0375
Stephen W. Lewis email: slewis@utah.gov
Gale K. Francis email: gfrancis@utah.gov
Laron J. Lind email: LLind@utah.gov

United States Bankruptcy Code - Various Tax Related Provisions

Section 362 - Automatic Stay; 362 (b), “Does not operate as a stay”: Section 9, (A) audit by a governmental unit to determine a tax liability; (B) the issuance of a notice of tax deficiency; C a demand for tax returns (D) the making of an assessment for any tax and issuance of a notice and demand for payment of such an assessment....

Section 505 - Determination of Tax Liability. 505 (a)(1)The Court may determine the amount or legality of any tax, any fine or penalty relating to a tax, or any addition to tax, whether or not previously assessed.... (a)(2) the court may not so determine (A) the amount or legality of a tax, fine, penalty or addition to tax if such amount or legality was contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction before the commencement of the case.

Section 521 - Debtors Duties; Section (j) (1): If the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.

Title 28, Section 959 Trustees and receivers suable; management; State laws. Section (b) a trustee...including a debtor in possession, shall manage and operate the property in his possession...according to the requirements of the valid laws of the State in which such property is situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof.

Section 1307 Conversion or Dismissal, Section (e) Upon failure of the debtor to file a tax return under section 1308, on request of a party in interest or the US trustee and after notice and a hearing, the Court shall dismiss a case or convert a case....

Section 1308 Filing of Pre petition Tax Returns; Section (a) Debtor prior to the “341 meeting of creditors” shall file with tax authorities all tax returns relating to “4 years back”. Section (b) (1) the trustee may “hold open” the 341 meeting for a reasonable time until returns are filed. Period may be extended if circumstances are “beyond the control” of the debtor...

Section 1325 Confirmation of Plan; (a) the Court shall confirm a plan if - (9) the debtor has filed all applicable Federal, State and local tax returns as required by section 1308.

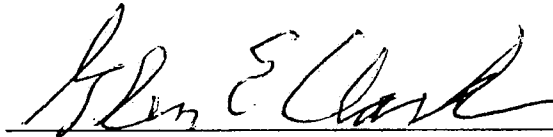
Section 1129 Confirmation of Plan; Section (9) C With respect to a claim of a kind specified in section 507(a)(8)...the holder of such claim will receive on account of such claim regular installment payments of cash - of a total value, over a period not later than FIVE years after the date of the order for relief, and in a manner not less favorable than the most favored non priority unsecured claim provided for by the plan. Secured claims shall be treated in the same manner.

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH

STANDING ORDER NUMBER 4

This Standing Order Number 4 is issued by the United States Bankruptcy Court for the District of Utah pursuant to Local Rule 1001-2. It is effective for all cases filed on or after December 1, 2008.

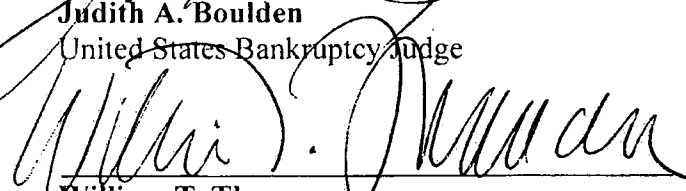
Dated this 24 day of November, 2008.



Glen E. Clark
Chief Judge, United States Bankruptcy Court
for the District of Utah

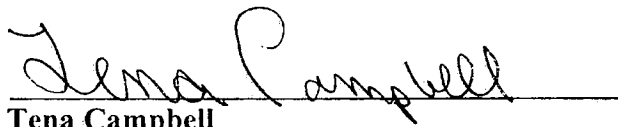


Judith A. Boulden
United States Bankruptcy Judge



William T. Thurman
United States Bankruptcy Judge

Approved



Tena Campbell
Chief Judge, United States District Court for the
District of Utah

FILED
CLERK OF DISTRICT COURT
DISTRICT OF UTAH
2008 NOV 25 PM 5:41
SALT LAKE CITY

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH

STANDING ORDER NUMBER 4

Repeal of Standing Orders Number 2 and 3 as to Interim Rules

Whereas, on September 20, 2005 the Court issued Standing Order Number 2 adopting Interim Rules and Local Rules designed to implement the substantive and procedural changes mandated by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, and adding the Local Form for Verification and Request for Discharge as Appendix E to the Local Rules; and on October 10, 2006 Standing Order Number 3 adopting an amendment to Interim Rule 1007 as well as Director's Procedural Forms 104 and 210, and adding the Local Form for Payment Advices Certification as Appendix F to the Local Rules; and

Whereas, the Interim Rules will be superseded by new and amended Federal Rules of Bankruptcy Procedure that will take effect on December 1, 2008;

NOW THEREFORE, pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure, and Rule 9029 of the Federal Rules of Bankruptcy Procedure, Standing Orders Number 2 and 3 are REPEALED effective December 1, 2008, except in the following respects:

(a) The Local Rule amendments and Appendix E to the Local Rules, attached hereto and originally set forth in Standing Order Number 2, shall remain in effect; and

(b) The adoption of Director's Procedural Forms 104 (as modified in August 2007) and 210 and Appendix F to the Local Rules, attached hereto and originally set forth in Standing Order Number 3, shall remain in effect.

RULE 6070-1

TAX RETURNS AND TAX REFUNDS

(a) Tax Requirements in Chapter 11, 12 and 13 Cases. Debtors in possession, Chapter 11 trustees, and Chapter 12 and 13 debtors, are subject to the requirements and regulations of the Internal Revenue Service and any applicable state or local taxing authority. Debtors who are not employers are required to comply only with subsection (6) below.

(1) Federal Taxes. The debtor, debtor in possession or the trustee must comply with the Internal Revenue Code and regulations regarding withholding of taxes from the wages of employees, the payment of the employer's FICA and FUTA tax liabilities, the making of deposits of such taxes, and the filing of employment tax returns as well as any excise or income tax returns for which the estate is liable.

(2) State Taxes. The debtor, debtor in possession or the trustee must comply with the laws and regulations of any applicable state or local taxing authority regarding withholding of taxes from the wages of employees; the collection and remittance of other types of tax which the estate is required to collect, deposit with, or remit to any applicable state or local taxing authority; the payment of unemployment insurance contributions to the appropriate state or local taxing authority; and the timely filing of returns accounting for the same.

(3) Trust Accounts. Within 20 days after the petition date, the debtor in possession or trustee must open separate bank trust accounts for the Internal Revenue Service and for each applicable state and local taxing authority for all tax deposits. Only the tax deposits due each entity are to be made into these trust accounts as they accrue each pay period. A Chapter 12 or 13 debtor must provide the applicable trustee proof of

such trust accounts at the § 341 meeting.

(4) Notification. The debtor in possession or trustee should notify the Internal Revenue Service and each state or local taxing authority of the location and account numbers of the respective trust accounts opened under subsection (a)(3) of this rule. The notices should be sent within 5 days after the date the account is opened. Notices to the Internal Revenue Service, the Utah State Tax Commission, and the Utah Department of Workforce Services must be mailed or delivered to addresses cited in Local Rule 2002-1(g).

(5) State Deposit Verification. The debtor, debtor in possession or trustee must, if applicable, file the Utah State Tax Commission's Verification of Taxpayer Deposit at the address shown in Local Rule 2002-1(g) within 5 days after making the required deposit.

(6) Filing and Payment. The debtor, debtor in possession or trustee must: (A) timely file any required tax returns with the Internal Revenue Service; (B) timely file any required tax returns with any applicable state or local taxing authority; (C) timely file unemployment insurance contribution reports with applicable state or local authorities; and (D) pay taxes on a current basis. Returns and reports filed with and payments made to the Internal Revenue Service, the Utah State Tax Commission and the Utah Department of Workforce Services should be delivered to the addresses stated in Local Rule 2002-1(g), not to the regular addresses for filing the returns and reports.

(b) Tax Returns in Chapter 12 Cases. [No change.]

(c) Tax Returns in Chapter 13 Cases. [No change.]

Utah Rules of Professional Conduct

Rule 4.2 COMMUNICATION WITH PERSONS REPRESENTED BY COUNSEL:

(a) General Rule. In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer.

Notwithstanding the foregoing, an attorney may, without such prior consent, communicate with another's client if authorized to do so by any law, rule, or court order, in which event the communication shall be strictly restricted to that allowed by the law, rule or court order, or as authorized by paragraphs (b), (c), (d) or (e) of this Rule.

Rule 2.1 ADVISOR: In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to the law but to other considerations such as moral, economic, social and political factors that may be relevant to the clients situation.