



28 Section 1. Section 59-10-1017 is amended to read:

29 **59-10-1017. Utah Educational Savings Plan tax credit.**

30 (1) As used in this section:

31 (a) "Account owner" is as defined in Section 53B-8a-102.

32 (b) "Higher education costs" is as defined in Section 53B-8a-102.

33 (c) "Maximum amount of a qualified investment for the taxable year" means, for a  
34 taxable year:

35 (i) for a claimant, estate, or trust that is an account owner, if that claimant, estate, or  
36 trust is other than husband and wife account owners who file a single return jointly, the  
37 maximum amount of a qualified investment:

38 (A) listed in Subsection 53B-8a-106(1)(e)(ii); and

39 (B) increased or kept for that taxable year in accordance with Subsections  
40 53B-8a-106(1)(f) and (g); or

41 (ii) for claimants who are husband and wife account owners who file a single return  
42 jointly, the maximum amount of a qualified investment:

43 (A) listed in Subsection 53B-8a-106(1)(e)(iii); and

44 (B) increased or kept for that taxable year in accordance with Subsections  
45 53B-8a-106(1)(f) and (g).

46 (d) "Qualified investment" is as defined in Section 53B-8a-102.

47 (2) Except as provided in Section 59-10-1002.2 and subject to the other provisions of  
48 this section, a claimant, estate, or trust that is an account owner may claim a nonrefundable tax  
49 credit equal to the product of:

50 [~~(a) the lesser of:~~]

51 [~~(i)~~] (a) the amount of a qualified investment [~~the~~]:

52 (i) made during the taxable year; and

53 (ii) that is deposited into an account owned by the claimant, estate, or trust[.]; and

54 [~~(A) makes during the taxable year; and]~~

55 [~~(B) does not deduct:]~~

56 (b) 5%.

57 (3) A claimant, estate, or trust, or a person other than the claimant, estate, or trust, may  
58 make a qualified investment described in Subsection (2).

59 (4) A claimant, estate, or trust may not claim a tax credit under this section if the  
60 claimant, estate, or trust deducts the amount of the qualified investment described in

61 Subsection (2):

62 ~~[(F)]~~ (a) for a claimant, on the claimant's federal individual income tax return; or

63 ~~[(H)]~~ (b) for an estate or trust, on the estate's or trust's federal income tax return for  
64 estates and trusts~~[-or]~~.

65 ~~[(ii)]~~ (5) A tax credit under this section may not exceed the maximum amount of a  
66 qualified investment for the taxable year ~~[if the amount described in Subsection (2)(a)(i) is~~  
67 ~~greater than the maximum amount of a qualified investment for the taxable year; and]~~.

68 ~~[(b) 5%.]~~

69 ~~[(3)]~~ (6) A tax credit under this section may not be carried forward or carried back.

70 Section 2. Section **59-10-1313** is amended to read:

71 **59-10-1313. Contribution to a Utah Educational Savings Plan account.**

72 (1) (a) If a resident or nonresident individual is owed an individual income tax refund  
73 for the taxable year, the individual may designate on the resident or nonresident individual's  
74 income tax return a contribution to a Utah Educational Savings Plan account established under  
75 Title 53B, Chapter 8a, Utah Educational Savings Plan, ~~[in the amount of the entire individual~~  
76 ~~income tax refund]~~ as provided in this part.

77 (b) If a resident or nonresident individual is not owed an individual income tax refund  
78 for the taxable year, the individual may not designate on the resident or nonresident's individual  
79 income tax return a contribution to a Utah Educational Savings Plan account.

80 (2) (a) The commission shall send the contribution to the Utah Educational Savings  
81 Plan along with the following information:

82 (i) the amount of the individual income tax refund; and

83 (ii) the taxpayer's:

84 (A) name;

85 (B) Social Security number or taxpayer identification number; and

86 (C) address.

87 (b) The commission shall provide the taxpayer's telephone number and number of  
88 dependents claimed, as requested, to the Utah Educational Savings Plan.

89 (c) If a contribution to a Utah Educational Savings Plan account is designated in a

90 single individual income tax return filed jointly by a husband and wife, the commission shall  
91 send the information described under Subsection (2)(a) or (b) for both the husband and wife to  
92 the Utah Educational Savings Plan.

93 (3) (a) If the taxpayer owns a Utah Educational Savings Plan account, the Utah  
94 Educational Savings Plan shall deposit the contribution into the account.

95 (b) If the taxpayer owns more than one Utah Educational Savings Plan account, the  
96 Utah Educational Savings Plan shall allocate the contribution among the accounts in equal  
97 amounts.

98 (c) (i) If the taxpayer does not own a Utah Educational Savings Plan account, the Utah  
99 Educational Savings Plan shall send the taxpayer an account agreement.

100 (ii) If the taxpayer does not sign and return the account agreement by the date specified  
101 by the Utah Educational Savings Plan, the Utah Educational Savings Plan shall return the  
102 contribution to the taxpayer without any interest or earnings.

103 (4) For the purpose of determining interest on an overpayment or refund under Section  
104 [59-1-402](#), no interest accrues after the commission sends the contribution to the Utah  
105 Educational Savings Plan.

106 **Section 3. Effective date -- Retrospective operation.**

107 (1) The actions affecting Section 59-10-1017 have retrospective operation for a taxable  
108 year beginning on or after January 1, 2015.

109 (2) The actions affecting Section 59-10-1313 take effect for a taxable year beginning  
110 on or after January 1, 2016.

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**Legislative Review Note**  
**as of 1-15-15 12:10 PM**

**Office of Legislative Research and General Counsel**