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First Substitute H.B. 317

Representative Brad J. Galvez proposes the following substitute bill:

1

CURRENCY AMENDMENTS

2

2011 GENERAL SESSION

3

STATE OF UTAH

4

Chief Sponsor: Brad J. Galvez

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Senate Sponsor: Scott K. Jenkins

6

7

LONG TITLE

8

General Description:

9

This bill recognizes gold and silver coins that are issued by the federal government as

10

legal tender in the state and exempts the exchange of the coins from certain types of

11

state tax liability.

12

Highlighted Provisions:

13

This bill:

14

. provides definitions;

15

. recognizes gold and silver coins issued by the federal government to be legal tender

16

in the state;

17

. does not compel a person to tender or accept gold and silver coin;

18

. provides that the exchange of gold and silver coins for another form

of legal tender

19

does not create any individual income or sales tax liability;

20

. requires the Revenue and Taxation Interim Committee to:

21

. study the possibility of establishing an alternative form of legal

tender;

22 . recommend whether an alternative form of legal tender should be
 established;
 23 and
 24 . prepare any recommended legislation for the 2012 General
 Session; and
 25 . enacts an uncodified severability clause.

26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **59-10-1002.2**, as renumbered and amended by Laws of Utah 2008,
 Chapter 389

33 ENACTS:

34 **59-1-1501**, Utah Code Annotated 1953

35 **59-1-1502**, Utah Code Annotated 1953

36 **59-1-1503**, Utah Code Annotated 1953

37 **59-1-1504**, Utah Code Annotated 1953

38 **59-10-1025**, Utah Code Annotated 1953

39 **Uncodified Material Affected:**

40 ENACTS UNCODIFIED MATERIAL

41

42 *Be it enacted by the Legislature of the state of Utah:*

43 Section 1. Section **59-1-1501** is enacted to read:

44

Part 15. Legal Tender Act

45 **59-1-1501. Title.**

46 *This part is known as the "Legal Tender Act."*

47 Section 2. Section **59-1-1502** is enacted to read:

48 **59-1-1502. Gold and silver coin.**

49 *(1) Gold and silver coin issued by the federal government is legal tender*
in the state.

50 *(2) A person may not compel any other person to tender or accept gold*
and silver coin

51 *that is issued by the federal government.*

52 Section 3. Section **59-1-1503** is enacted to read:

53 **59-1-1503. Nonrefundable credit -- Sales tax exemption.**

54 *(1) There is a nonrefundable credit established for any capital gains*
incurred from the
 55 *exchange of gold and silver coin issued by the federal government for*
another form of legal
 56 *tender as provided in Section 59-10-1025 .*

57 *(2) The exchange of gold and silver coin issued by the federal*
government for another

58 *form of legal tender is exempt from sales and use taxes as provided in*
Subsection

59 *59-12-104 (50).*

60 Section 4. Section **59-1-1504** is enacted to read:

61 **59-1-1504. Revenue and Taxation Interim Committee study.**

62 The Revenue and Taxation Interim Committee shall during the 2011

interim:

63 (1) study the possibility of establishing an alternative form of legal

tender for the

64 payment of debts, public charges, taxes, and dues within the state;

65 (2) recommend whether legislation should be drafted to establish an

alternative form of

66 legal tender; and

67 (3) prepare any legislation that the Revenue and Taxation Interim

Committee

68 recommends in accordance with Subsection (2) for consideration by the

Legislature during the

69 2012 General Session.

70 Section 5. Section **59-10-1002.2** is amended to read:

71 **59-10-1002.2. Apportionment of tax credits.**

72 (1) A nonresident individual or a part-year resident individual that claims
a tax credit

73 in accordance with Section 59-10-1017 , 59-10-1018 , 59-10-1019 ,
59-10-1021 , 59-10-1022 ,

74 59-10-1023 , [✕] 59-10-1024 , or 59-10-1025 may only claim an
apportioned amount of the tax

75 credit equal to:

76 (a) for a nonresident individual, the product of:

77 (i) the state income tax percentage for the nonresident individual; and

78 (ii) the amount of the tax credit that the nonresident individual would
have been

79 allowed to claim but for the apportionment requirements of this section; or

80 (b) for a part-year resident individual, the product of:

81 (i) the state income tax percentage for the part-year resident individual;
and

82 (ii) the amount of the tax credit that the part-year resident individual
would have been

83 allowed to claim but for the apportionment requirements of this section.

84 (2) A nonresident estate or trust that claims a tax credit in accordance
with Section

85 59-10-1017 , 59-10-1020 , 59-10-1022 , [✕] 59-10-1024 , or 59-10-1025
may only claim an

86 apportioned amount of the tax credit equal to the product of:

87 (a) the state income tax percentage for the nonresident estate or trust;
and

88 (b) the amount of the tax credit that the nonresident estate or trust
would have been

89 allowed to claim but for the apportionment requirements of this section.

90 Section 6. Section **59-10-1025** is enacted to read:

91 **59-10-1025. Nonrefundable tax credit for capital gain**
transactions on the

92 **exchange of gold and silver coin for another form of legal tender.**

93 (1) As used in this section:

94 (a) "Capital gain transaction" means a transaction that results in a:
 95 (i) short-term capital gain; or
 96 (ii) long-term capital gain.
 97 (b) "Long-term capital gain" is as defined in Section 1222, Internal
Revenue Code.
 98 (c) "Short-term capital gain" is as defined in Section 1222, Internal
Revenue Code.
 99 (2) Except as provided in Section 59-10-1002.2, for taxable years
beginning on or after
 100 January 1, 2012, a claimant, estate, or trust may claim a nonrefundable
tax credit equal to the
 101 product of:
 102 (a) to the extent a capital gain is not offset by a capital loss under
Chapter 1,
 103 Subchapter P, Capital Gains and Losses, Internal Revenue Code, the total
amount of the
 104 claimant's, estate's, or trust's short-term capital gain or long-term capital
gain on a capital gain
 105 transaction from an exchange made on or after January 1, 2012, of gold
or silver coin issued by
 106 the federal government for another form of legal tender; and
 107 (b) 5%.
 108 (3) A claimant, estate, or trust may not carry forward or carry back a
tax credit under
 109 this section.
 110 (4) In accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act, the
 111 commission may make rules to implement this section.
 112 **Section 7. Severability clause.**
 113 If any section of this bill or the application of any section of this bill to
any person or
 114 circumstance is held invalid by a final decision of a court of competent
jurisdiction, the
 115 remainder of this bill shall be given effect without the invalid section or
application. The
 116 provisions of this bill are severable.

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