

1 **INCOME TAX - DEFINITIONS RELATING**
2 **TO DISABLED PERSONS**

3 1999 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Judy Ann Buffmire**

6 AN ACT RELATING TO THE INDIVIDUAL INCOME TAX ACT; MODIFYING
7 DEFINITIONS RELATING TO DISABLED PERSONS; MAKING TECHNICAL CHANGES;
8 AND PROVIDING FOR RETROSPECTIVE OPERATION.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **59-10-103**, as last amended by Chapter 345, Laws of Utah 1995

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

13 Section 1. Section **59-10-103** is amended to read:

14 **59-10-103. Definitions.**

15 (1) As used in this chapter:

16 (a) "Adult with a disability" means ~~[a person over 21 years of age who]~~ an individual who:

17 (i) is 18 years of age or older;

18 (ii) is eligible for services under Title 62A, Chapter 5, Services to People with

19 Disabilities[-]; and

20 (iii) is not enrolled in:

21 (A) an education program for students with disabilities that is authorized under Section
22 53A-15-301; or

23 (B) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind.

24 (b) "Corporation" includes associations, joint stock companies, and insurance companies.

25 (c) "Dependent child with a disability" means ~~[a person]~~ an individual 21 years of age or
26 younger who ~~[is]~~:

27 (i) (A) is diagnosed by a school district representative under rules adopted by the State

28 Board of Education as having a disability classified as:

29 (I) autism[;];

30 (II) deafness[;];

31 (III) preschool developmental delay [~~(preschool)~~;];

32 (IV) dual sensory impairment [~~(deaf/blind)~~;];

33 (V) hearing impairment[;];

34 (VI) intellectual disability[;];

35 (VII) multidisability[;];

36 (VIII) orthopedic impairment[;];

37 (IX) other health impairment[;];

38 (X) traumatic brain injury[;]; or

39 (XI) visual impairment[~~-who~~];

40 (B) is not receiving residential services from:

41 (I) the Division of Services for People with Disabilities created under Section 62A-5-102;

42 or [~~the schools for the deaf and blind, but]~~

43 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind; and

44 (C) is enrolled in [~~a school district's special~~];

45 (I) an education program [~~funded under Section 53A-17a-111, or in the schools for the~~
46 ~~deaf and blind]~~ for students with disabilities that is authorized under Section 53A-15-301; or

47 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind; or

48 (ii) is identified under guidelines of the Department of Health as qualified for:

49 (A) Early Intervention; or

50 (B) Infant Development Services.

51 (d) "Employer," "employee," and "wages" are defined as provided in Section 59-10-401.

52 (e) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator,
53 or any person acting in any fiduciary capacity for any individual.

54 (f) "Individual" means a natural person and includes aliens and minors.

55 (g) "Nonresident individual" means an individual who is not a resident of this state.

56 (h) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a
57 resident estate or trust.

58 (i) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other

59 unincorporated organization, through or by means of which any business, financial operation, or
60 venture is carried on, and which is not, within the meaning of this chapter, a trust or estate or a
61 corporation.

62 (ii) "Partnership" does not include any organization not included under the definition of
63 "partnership" contained in Section 761, Internal Revenue Code.

64 (iii) "Partner" includes a member in such a syndicate, group, pool, joint venture, or
65 organization.

66 (j) "Resident individual" means:

67 (i) an individual who is domiciled in this state for any period of time during the taxable
68 year, but only for the duration of such period; or

69 (ii) an individual who is not domiciled in this state but maintains a permanent place of
70 abode in this state and spends in the aggregate 183 or more days of the taxable year in this state.

71 For purposes of this Subsection (ii), a fraction of a calendar day shall be counted as a whole day.

72 (k) (i) "Resident estate" or "resident trust" means:

73 (A) an estate of a decedent who at his death was domiciled in this state;

74 (B) a trust, or a portion of a trust, consisting of property transferred by will of a decedent
75 who at his death was domiciled in this state; or

76 (C) a trust administered in this state.

77 (ii) For purposes of this chapter, a trust shall be considered to be administered in this state
78 if:

79 (A) the place of business where the fiduciary transacts a major portion of its administration
80 of the trust is in this state; or

81 (B) the usual place of business of the fiduciary is in this state.

82 (iii) Where there are two or more fiduciaries, the residency status of the trust shall be
83 determined by the situs of the corporate or professional fiduciary with primary responsibility for
84 the administration of the trust as defined in the trust instrument.

85 (iv) The commission may, by rule, provide additional guidelines to determine the
86 residency status of a trust.

87 (l) "Taxable income" and "state taxable income" are defined as provided in Sections
88 59-10-111, 59-10-112, 59-10-116, 59-10-201.1, and 59-10-204.

89 (m) "Taxpayer" means any individual, estate, or trust or beneficiary of an estate or trust,

90 whose income is subject in whole or part to the tax imposed by this chapter.

91 (2) Any term used in this chapter has the same meaning as when used in comparable
92 context in the laws of the United States relating to federal income taxes unless a different meaning
93 is clearly required. Any reference to the Internal Revenue Code or to the laws of the United States
94 shall mean the Internal Revenue Code or other provisions of the laws of the United States relating
95 to federal income taxes which are in effect for the taxable year. Any reference to a specific section
96 of the Internal Revenue Code or other provision of the laws of the United States relating to federal
97 income taxes shall include any corresponding or comparable provisions of the Internal Revenue
98 Code as hereafter amended, redesignated, or reenacted.

99 Section 2. **Retrospective operation.**

100 This act has retrospective operation for taxable years beginning on or after January 1, 1999.

Legislative Review Note
as of 12-10-98 12:23 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel