

INCOME TAX AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Howard C. Nielson

AN ACT RELATING TO THE INDIVIDUAL INCOME TAX ACT; REPEALING OBSOLETE LANGUAGE; REQUIRING THE STATE TAX COMMISSION TO MAKE CERTAIN INFLATIONARY ~~§ OR DEFLATIONARY~~ § ADJUSTMENTS TO THE INDIVIDUAL INCOME TAX BRACKETS AND AMOUNT OF TAX; MODIFYING DEFINITIONS; CHANGING THE BASIS FOR CALCULATING INDIVIDUAL INCOME TAXES FROM FEDERAL TAXABLE INCOME TO FEDERAL ADJUSTED GROSS INCOME; ~~§ [REPEALING THE ADDITION TO INCOME]~~ § ~~§ [OF 25% OF A TAXPAYER'S FEDERAL PERSONAL EXEMPTIONS;]~~ § REQUIRING TAXPAYERS TO ELECT TO SUBTRACT FROM ADJUSTED GROSS INCOME EITHER THE FEDERAL STANDARD DEDUCTION OR FEDERAL ITEMIZED DEDUCTIONS; MAKING TECHNICAL CHANGES; AND PROVIDING AN EFFECTIVE DATE.

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

AMENDS:

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

59-10-104, as last amended by Chapter 333, Laws of Utah 1996

59-10-111, as last amended by Chapter 96, Laws of Utah 1987

59-10-112, as last amended by Chapter 345, Laws of Utah 1995

59-10-114, as last amended by Chapter 56, Laws of Utah 1997

59-10-116, as renumbered and amended by Chapter 2, Laws of Utah 1987

59-10-117, as last amended by Chapters 311 and 345, Laws of Utah 1995

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

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

59-10-103. Definitions.

(1) As used in this chapter:

28 (a) "Adult with a disability" means a person over 21 years of age who is eligible for
29 services under Title 62A, Chapter 5, Services to People with Disabilities.

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

31 (c) "Dependent child with a disability" means a person 21 years of age or younger who is:

32 (i) diagnosed by a school district representative under rules adopted by the State Board of
33 Education as having a disability classified as autism, deafness, developmental delay (preschool),
34 dual sensory impairment (deaf/blind), hearing impairment, intellectual disability, multidisability,
35 orthopedic impairment, other health impairment, traumatic brain injury, or visual impairment, who
36 is not receiving residential services from the Division of Services for People with Disabilities or
37 the schools for the deaf and blind, but is enrolled in a school district's special education program
38 funded under Section 53A-17a-111, or in the schools for the deaf and blind; or

39 (ii) identified under guidelines of the Department of Health as qualified for Early
40 Intervention or Infant Development Services.

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

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

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

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

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

48 (i) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other
49 unincorporated organization, through or by means of which any business, financial operation, or
50 venture is carried on, and which is not, within the meaning of this chapter, a trust or estate or a
51 corporation.

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

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

56 (j) "Resident individual" means:

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

59 (ii) an individual who is not domiciled in this state but maintains a permanent place of
60 abode in this state and spends in the aggregate 183 or more days of the taxable year in this state.
61 For purposes of this Subsection ~~(1)(j)~~(ii), a fraction of a calendar day shall be counted as a whole
62 day.

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

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

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

67 (C) a trust administered in this state.

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

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

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

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

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

78 ~~[(f) "Taxable income" and "state taxable income" are defined as provided in Sections~~
79 ~~59-10-111, 59-10-112, 59-10-116, 59-10-201.1, and 59-10-204.]~~

80 ~~[(m)]~~ (l) "Taxpayer" means any individual, estate, or trust or beneficiary of an estate or
81 trust, whose income is subject in whole or part to the tax imposed by this chapter.

82 (2) Any term used in this chapter has the same meaning as when used in comparable
83 context in the laws of the United States relating to federal income taxes unless a different meaning
84 is clearly required. Any reference to the Internal Revenue Code or to the laws of the United States
85 shall mean the Internal Revenue Code or other provisions of the laws of the United States relating
86 to federal income taxes which are in effect for the taxable year. Any reference to a specific section
87 of the Internal Revenue Code or other provision of the laws of the United States relating to federal
88 income taxes shall include any corresponding or comparable provisions of the Internal Revenue
89 Code as hereafter amended, redesignated, or reenacted.

90 Section 2. Section **59-10-104** is amended to read:

91 **59-10-104. Tax basis -- Rates.**

92 [~~(1) For taxable years beginning on or after January 1, 1996, but beginning before January~~
93 ~~1, 1997, a tax is imposed on the state taxable income, as defined in Section 59-10-112, of every~~
94 ~~resident individual as follows:]~~

95 [~~(a) For an individual, other than a husband and wife or head of household required to use~~
96 ~~the tax table under Subsection (1)(b), the tax under this section is imposed in accordance with the~~
97 ~~following table:]~~

98 [If the state taxable income is: _____ The tax is:]

99 [Less than or equal to \$750 _____ 2.55% of the state taxable income]

100 [Greater than \$750 but less than or equal _____ \$19, plus 3.5% of state taxable income]

101 [to \$1,500 _____ greater than \$750]

102 [Greater than \$1,500 but less than or equal _____ \$45, plus 4.4% of state taxable income]

103 [to \$2,250 _____ greater than \$1,500]

104 [Greater than \$2,250 but less than or equal _____ \$78, plus 5.35% of state taxable income]

105 [to \$3,000 _____ greater than \$2,250]

106 [Greater than \$3,000 but less than or equal _____ \$119, plus 6% of state taxable income]

107 [to \$3,750 _____ greater than \$3,000]

108 [Greater than \$3,750 _____ \$164, plus 7% of state taxable income]

109 [greater than \$3,750]

110 [~~(b) For a husband and wife filing a single return jointly, or a head of household as defined~~
111 ~~in Section 2(b), Internal Revenue Code, filing a single return, the tax under this section is imposed~~
112 ~~in accordance with the following table:]~~

113 [If the state taxable income is: _____ The tax is:]

114 [Less than or equal to \$1,500 _____ 2.55% of the state taxable income]

115 [Greater than \$1,500 but less than or equal _____ \$38, plus 3.5% of state taxable income]

116 [to \$3,000 _____ greater than \$1,500]

117 [Greater than \$3,000 but less than or equal _____ \$91, plus 4.4% of state taxable income]

118 [to \$4,500 _____ greater than \$3,000]

119 [Greater than \$4,500 but less than or equal _____ \$157, plus 5.35% of state taxable income]

120 [to \$6,000 _____ greater than \$4,500]

121 [~~Greater than \$6,000 but less than or equal~~ ~~to \$7,500~~ ~~\$237, plus 6% of state taxable income~~
 122 ~~greater than \$6,000~~
 123 [~~Greater than \$7,500~~ ~~\$327, plus 7% of state taxable income~~
 124 ~~greater than \$7,500~~]

125 ~~(2)~~ (1) For taxable years beginning on or after January 1, 1997, a tax is imposed on the
 126 state taxable income, as defined in Section 59-10-112, of every resident individual as ~~follows~~
 127 provided in Subsections (1)(a) and (b):

128 (a) For an individual, other than a husband and wife or head of household required to use
 129 the tax table under Subsection ~~(2)~~ (1)(b), the tax under this section is imposed in accordance with
 130 the following table:

131 If the state taxable income is:	The tax is:
132 Less than or equal to \$750	2.3% of the state taxable income
133 Greater than \$750 but less than or equal 134 to \$1,500	\$17, plus 3.3% of state taxable income greater than \$750
135 Greater than \$1,500 but less than or equal 136 to \$2,250	\$42, plus 4.2% of state taxable income greater than \$1,500
137 Greater than \$2,250 but less than or equal 138 to \$3,000	\$74, plus 5.2% of state taxable income greater than \$2,250
139 Greater than \$3,000 but less than or equal 140 to \$3,750	\$113, plus 6% of state taxable income greater than \$3,000
141 Greater than \$3,750	\$158, plus 7% of state taxable income greater than \$3,750

142
 143 (b) For a husband and wife filing a single return jointly, or a head of household as defined
 144 in Section 2(b), Internal Revenue Code, filing a single return, the tax under this section is imposed
 145 in accordance with the following table:

146 If the state taxable income is:	The tax is:
147 Less than or equal to \$1,500	2.3% of the state taxable income
148 Greater than \$1,500 but less than or equal 149 to \$3,000	\$35, plus 3.3% of state taxable income greater than \$1,500
150 Greater than \$3,000 but less than or equal 151 to \$4,500	\$84, plus 4.2% of state taxable income greater than \$3,000

152	Greater than \$4,500 but less than or equal	\$147, plus 5.2% of state taxable income
153	to \$6,000	greater than \$4,500
154	Greater than \$6,000 but less than or equal	\$225, plus 6% of state taxable income
155	to \$7,500	greater than \$6,000
156	Greater than \$7,500	\$315, plus 7% of state taxable income
157		greater than \$7,500

158 (2) (a) For taxable years beginning on or after January 1, 2001, the commission shall § : §
 159 § [increase or decrease:] §

160 (i) § (A) INCREASE OR DECREASE § the individual income tax brackets under Subsection
 160a (1) in a percentage equal to the
 161 percentage difference between the consumer price index for the preceding calendar year and the
 162 consumer price index for calendar year 1999; and § (B) AFTER MAKING AN INCREASE OR
 162a DECREASE UNDER SUBSECTION (2)(a)(i)(A), ROUND UP THE INDIVIDUAL INCOME TAX BRACKETS
 162b UNDER SECTION (1) TO THE NEAREST \$100; AND §

163 (ii) § INCREASE OR DECREASE, § to the extent necessary to reflect the increase or decrease
 163a in the individual income tax
 164 brackets under Subsection (2)(a)(i), the amount of tax under Subsections (1)(a) and (b) prior to
 165 adding in the portion of the tax calculated as a percentage of state taxable income.

166 (b) The commission may not increase or decrease the rate percentages provided in
 167 Subsection (1)(a) or (b).

168 (c) For purposes of Subsection (2)(a)(i), the commission shall calculate the consumer price
 169 index as provided in Section 1(f)(4) and 1(f)(5), Internal Revenue Code.

170 Section 3. Section **59-10-111** is amended to read:

171 **59-10-111. Federal taxable income defined.**

172 For purposes of this chapter "[Federal] federal taxable income" means taxable income as
 173 [currently] defined in Section 63, Internal Revenue Code [of 1986].

174 Section 4. Section **59-10-112** is amended to read:

175 **59-10-112. State taxable income of resident individual.**

176 (1) Except as otherwise provided in this chapter, for purposes of this chapter "[State] state
 177 taxable income" in the case of a resident individual means [his] the individual's federal [taxable]
 178 adjusted gross income [(as defined [by] in Section [59-10-111]) 62, Internal Revenue Code, with
 179 the modifications, subtractions, and adjustments provided in Section 59-10-114.

180 (2) The state taxable income of a resident individual who is the beneficiary of an estate or
 181 trust shall be modified by the adjustments provided in Section 59-10-209.

182 Section 5. Section **59-10-114** is amended to read:

183 **59-10-114. Additions to and subtractions from federal adjusted gross income of an**
184 **individual.**

185 (1) ~~[There]~~ A resident or nonresident taxpayer shall ~~[be added]~~ add the following amounts
186 to the taxpayer's federal ~~[taxable]~~ adjusted gross income ~~[of a resident or nonresident individual]:~~

187 (a) if a taxpayer subtracts under Subsection (2)(1)(ii) the amount of federal itemized
188 deductions the taxpayer is allowed for the taxable year, the taxpayer shall add to the taxpayer's
189 federal adjusted gross income:

190 (i) the amount of any income tax imposed by this or any predecessor Utah individual
191 income tax law to the extent the taxpayer deducts the income tax on the taxpayer's federal
192 individual income tax return in determining federal taxable income; and

193 (ii) the amount of any income tax imposed by the laws of another state, the District of
194 Columbia, or a possession of the United States, ~~[to the extent deducted from federal adjusted gross~~
195 income, as defined by Section 62, Internal Revenue Code, in determining federal taxable income]
196 to the extent the taxpayer deducts the income tax on the taxpayer's federal individual income tax
197 return in determining federal taxable income;

198 (b) a lump sum distribution allowable as a deduction under Section 402(e)(3), Internal
199 Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code, in
200 determining federal adjusted gross income;

201 ~~[(e) 25% of the personal exemptions, as defined and calculated in the Internal Revenue~~
202 ~~Code;]~~

203 ~~[(d)]~~ (c) a withdrawal from a medical care savings account and any penalty imposed in the
204 taxable year if:

205 (i) the taxpayer did not deduct or include the amounts on ~~[his]~~ the taxpayer's federal
206 individual income tax return pursuant to Section 220, Internal Revenue Code; and

207 (ii) the withdrawal is subject to Subsections 31A-32-105(1) and (2); and

208 ~~[(e)]~~ (d) the amount refunded to a participant under Title 53B, Chapter 8a, Higher
209 Education Savings Incentive Program, in the year in which the amount is refunded.

210 (2) ~~[There]~~ A resident or nonresident taxpayer shall ~~[be subtracted]~~ subtract the following
211 amounts from the taxpayer's federal ~~[taxable]~~ adjusted gross income ~~[of a resident or nonresident~~
212 individual]:

213 (a) the interest or dividends on obligations or securities of the United States and its

214 possessions or of any authority, commission, or instrumentality of the United States, to the extent
215 includable in gross income for federal income tax purposes but exempt from state income taxes
216 under the laws of the United States, but the amount subtracted under this subsection shall be
217 reduced by any interest on indebtedness incurred or continued to purchase or carry the obligations
218 or securities described in this subsection, and by any expenses incurred in the production of
219 interest or dividend income described in this subsection to the extent that such expenses, including
220 amortizable bond premiums, are deductible in determining federal taxable income;

221 (b) 1/2 of the net amount of any income tax paid or payable to the United States after all
222 allowable credits, as reported on the United States individual income tax return of the taxpayer for
223 the same taxable year;

224 (c) the amount of adoption expenses which, for purposes of this subsection, means any
225 actual medical and hospital expenses of the mother of the adopted child which are incident to the
226 child's birth and any welfare agency, child placement service, legal, and other fees or costs relating
227 to the adoption;

228 (d) amounts received by taxpayers under age 65 as retirement income which, for purposes
229 of this section, means pensions and annuities, paid from an annuity contract purchased by an
230 employer under a plan which meets the requirements of Section 404 (a)(2), Internal Revenue Code,
231 or purchased by an employee under a plan which meets the requirements of Section 408, Internal
232 Revenue Code, or paid by the United States, a state, or political subdivision thereof, or the District
233 of Columbia, to the employee involved or the surviving spouse;

234 (e) subject to the reductions provided for in Subsection (3)(b), for each taxpayer age 65
235 or over before the close of the taxable year, a \$7,500 personal retirement exemption;

236 (f) 75% of the amount of the personal exemption, as [~~defined and~~] calculated in [~~the~~]
237 Section 151, Internal Revenue Code, for each dependent child with a disability and adult with a
238 disability who is claimed as a dependent on a taxpayer's return;

239 (g) any amount included in federal taxable income that was received pursuant to any
240 federal law enacted in 1988 to provide reparation payments, as damages for human suffering, to
241 United States citizens and resident aliens of Japanese ancestry who were interned during World
242 War II;

243 (h) subject to the limitations of Subsection (3)(e), 60% of the amounts paid by the taxpayer
244 during the taxable year for health care insurance, as defined in Title 31A, Chapter 1, Insurance

245 Code, for the taxpayer, the taxpayer's spouse, and the taxpayer's dependents to the extent the
 246 amounts paid for health insurance were not deductible under Sections 125, 162, or 213, Internal
 247 Revenue Code, in determining federal taxable income;

248 (i) except as ~~[otherwise]~~ provided in ~~[this]~~ Subsection (4), the amount of a contribution
 249 made in the tax year on behalf of the taxpayer to a medical care savings account and interest earned
 250 on a contribution to a medical care savings account established pursuant to Title 31A, Chapter 32,
 251 Medical Care Savings Account Act[;];

252 (A) to the extent the contribution is accepted by the account administrator as provided in
 253 the Medical Care Savings Account Act[;]; and

254 (B) if the taxpayer did not deduct or include amounts on ~~[his]~~ the taxpayer's federal
 255 individual income tax return pursuant to Section 220, Internal Revenue Code[. ~~A contribution~~
 256 ~~deductible under this subsection may not exceed either of the following:~~];

257 ~~[(i) the maximum contribution allowed under the Medical Care Savings Account Act for~~
 258 ~~the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is covered by~~
 259 ~~health care insurance as defined in Section 31A-1-301 or self-funded plan that covers the other~~
 260 ~~spouse, and each spouse has a medical care savings account; or]~~

261 ~~[(ii) the maximum contribution allowed under the Medical Care Savings Account Act for~~
 262 ~~the tax year for taxpayers:]~~

263 ~~[(A) who do not file a joint return; or]~~

264 ~~[(B) who file a joint return, but do not qualify under Subsection (2)(i)(i); and]~~

265 (j) the amount included in federal taxable income that was derived from money paid by
 266 the taxpayer to the program fund and investment income earned on those payments under Title
 267 53B, Chapter 8a, Higher Education Savings Incentive Program[;];

268 (k) ~~§ 75% OF §~~ the amount of personal exemptions the taxpayer is allowed for the taxable year under
 269 Section 151, Internal Revenue Code, for:

270 (i) the taxpayer;

271 (ii) the taxpayer's spouse; and

272 (iii) the taxpayer's dependents; and

273 (l) regardless of whether a taxpayer claims the federal standard deduction or itemizes
 274 deductions on the taxpayer's federal individual income tax return for the taxable year, the taxpayer
 275 shall elect to subtract from the taxpayer's adjusted gross income for taxable year either:

276 (i) the amount of the federal standard deduction the taxpayer is allowed for the taxable
277 year; or

278 (ii) the amount of the federal itemized deductions the taxpayer is allowed for the taxable
279 year.

280 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted for
281 taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or \$4,800,
282 except that:

283 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income earned
284 over \$32,000, the amount of the retirement income exemption that may be subtracted shall be
285 reduced by 50 cents;

286 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income
287 earned over \$16,000, the amount of the retirement income exemption that may be subtracted shall
288 be reduced by 50 cents; and

289 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over \$25,000,
290 the amount of the retirement income exemption that may be subtracted shall be reduced by 50
291 cents.

292 (b) For purposes of Subsection (2)(e), the amount of the personal retirement exemption
293 shall be [~~further~~] reduced according to the following schedule:

294 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income earned
295 over \$32,000, the amount of the personal retirement exemption shall be reduced by 50 cents;

296 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income
297 earned over \$16,000, the amount of the personal retirement exemption shall be reduced by 50
298 cents; and

299 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over \$25,000,
300 the amount of the personal retirement exemption shall be reduced by 50 cents.

301 (c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be calculated
302 by adding to federal adjusted gross income any interest income not otherwise included in federal
303 adjusted gross income.

304 (d) (i) For purposes of determining ownership of items of retirement income common law
305 doctrine will be applied in all cases even though some items may have originated from service or
306 investments in a community property state.

307 (ii) Amounts received by the spouse of a living retiree because of the retiree's having been
308 employed in a community property state are not deductible as retirement income of such spouse.

309 (e) For purposes of Subsection (2)(h), a subtraction for an amount paid for health care
310 insurance as defined in Title 31A, Chapter 1, Insurance Code, is not allowed:

311 (i) for an amount that is reimbursed or funded in whole or in part by the federal
312 government, the state, or an agency or instrumentality of the federal government or the state; and

313 (ii) for a taxpayer who is eligible to participate in a health plan maintained and funded in
314 whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.

315 (4) A contribution deductible under Subsection (2)(i) may not exceed either of the
316 following:

317 (i) the maximum contribution allowed under the Medical Care Savings Account Act for
318 the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is covered by
319 health care insurance as defined in Section 31A-1-301 or self-funded plan that covers the other
320 spouse, and each spouse has a medical care savings account; or

321 (ii) the maximum contribution allowed under the Medical Care Savings Account Act for
322 the tax year for taxpayers:

323 (A) who do not file a joint return; or

324 (B) who file a joint return, but do not qualify under Subsection (2)(i)(i).

325 Section 6. Section **59-10-116** is amended to read:

326 **59-10-116. Tax on nonresident individual's state taxable income.**

327 A tax is ~~hereby~~ imposed on the state taxable income, as defined in ~~[Sections 59-10-111~~
328 ~~and] Section 59-10-112~~, of every nonresident individual in accordance with the schedules in
329 Section 59-10-104, ~~[but] except that~~ the individual's Utah tax shall be only the portion of the
330 resident tax ~~[so calculated as] that~~ the individual's federal adjusted gross income received from
331 Utah sources ~~[determined under Section 59-10-117]~~ for the taxable year bears to the
332 individual's total federal adjusted gross income for the same taxable year.

333 Section 7. Section **59-10-117** is amended to read:

334 **59-10-117. Federal adjusted gross income derived from Utah sources.**

335 (1) For the purpose of Section 59-10-116, federal adjusted gross income derived from Utah
336 sources ~~[shall include] includes~~ those items includable in federal ~~[adjusted gross income]~~ as
337 defined ~~[by] in~~ Section 62 ~~[of the]~~, Internal Revenue Code~~]~~, attributable to or resulting from:

338 (a) the ownership in this state of any interest in real or tangible personal property,
339 [(including real property or property rights from which [^]gross income from mining[^], as
340 defined [by] in Section 613(c) [of the], Internal Revenue Code, is derived)]; or

341 (b) the carrying on of a business, trade, profession, or occupation in this state.

342 (2) For the purposes of Subsection (1):

343 (a) Income from intangible personal property, including annuities, dividends, interest, and
344 gains from the disposition of intangible personal property shall constitute income derived from
345 Utah sources only to the extent that such income is from property employed in a trade, business,
346 profession, or occupation carried on in this state.

347 (b) Deductions with respect to capital losses, net long-term capital gains, and net operating
348 losses shall be based solely on income, gain, loss, and deduction connected with Utah sources,
349 under rules prescribed by the commission, but otherwise shall be determined in the same manner
350 as the corresponding federal deductions.

351 (c) Salaries, wages, commissions, and compensation for personal services rendered outside
352 this state shall not be considered to be derived from Utah sources.

353 (d) A nonresident shareholder's distributive share of ordinary income, gain, loss, and
354 deduction derived from or connected with Utah sources shall be determined under Section
355 59-10-118.

356 (e) A nonresident, other than a dealer holding property primarily for sale to customers in
357 the ordinary course of [his] the dealer's trade or business, shall not be considered to carry on a
358 trade, business, profession, or occupation in this state solely by reason of the purchase or sale of
359 property for [his] the nonresident's own account.

360 (f) If a trade, business, profession, or occupation is carried on partly within and partly
361 without this state, items of income, gain, loss, and deductions derived from or connected with Utah
362 sources shall be determined in accordance with the provisions of Section 59-10-118.

363 (g) A nonresident partner's distributive share of partnership income, gain, loss, and
364 deduction derived from or connected with Utah sources shall be determined under Section
365 59-10-303.

366 (h) The share of a nonresident estate or trust and nonresident beneficiaries of any estate
367 or trust in income, gain, loss, and deduction derived from or connected with Utah sources shall be
368 determined under Section 59-10-207.

369 (i) Any dividend, interest, or distributive share of income, gain, or loss from a real estate
370 investment trust, as defined in Section ~~[59-7-116.5]~~ 856, Internal Revenue Code, distributed or
371 allocated to a nonresident investor in the trust, including any shareholder, beneficiary, or owner
372 of a beneficial interest in the trust, shall:

373 (a) be income from intangible personal property under Subsection (2)(a)~~;~~ and ~~shall~~

374 (b) constitute income derived from Utah sources only to the extent the nonresident investor
375 is employing its beneficial interest in the trust in a trade, business, profession, or occupation
376 carried on by the investor in this state.

377 Section 8. **Effective date.**

378 This act takes effect for taxable years beginning on or after January 1, 2000.

Legislative Review Note
as of 12-8-98 2:29 PM

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

Office of Legislative Research and General Counsel

Committee Note

The Revenue and Taxation Interim Committee voted this bill out without recommendation.