

1 **INCOME TAX AMENDMENTS**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Howard C. Nielson**

5 AN ACT RELATING TO THE INDIVIDUAL INCOME TAX ACT; REPEALING OBSOLETE  
6 LANGUAGE; MODIFYING DEFINITIONS; CHANGING THE BASIS FOR CALCULATING  
7 INDIVIDUAL INCOME TAXES FROM FEDERAL TAXABLE INCOME TO FEDERAL  
8 ADJUSTED GROSS INCOME; REQUIRING TAXPAYERS TO ELECT TO SUBTRACT  
9 FROM ADJUSTED GROSS INCOME EITHER THE FEDERAL STANDARD DEDUCTION  
10 OR FEDERAL ITEMIZED DEDUCTIONS; MAKING TECHNICAL CHANGES; AND  
11 PROVIDING AN EFFECTIVE DATE.

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

13 AMENDS:

14 **59-10-103**, as last amended by Chapter 88, Laws of Utah 1999

15 **59-10-104**, as last amended by Chapter 333, Laws of Utah 1996

16 **59-10-111**, as last amended by Chapter 96, Laws of Utah 1987

17 **59-10-112**, as last amended by Chapter 345, Laws of Utah 1995

18 **59-10-114**, as last amended by Chapters 60, 131, 240 and 282, Laws of Utah 1999

19 **59-10-116**, as renumbered and amended by Chapter 2, Laws of Utah 1987

20 **59-10-117**, as last amended by Chapters 311 and 345, Laws of Utah 1995

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

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

23 **59-10-103. Definitions.**

24 (1) As used in this chapter:

25 (a) "Adult with a disability" means an individual who:

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

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

28 and

29 (iii) is not enrolled in:

30 (A) an education program for students with disabilities that is authorized under Section  
31 53A-15-301; or

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

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

34 (c) "Dependent child with a disability" means an individual 21 years of age or younger

35 who:

36 (i) (A) is diagnosed by a school district representative under rules adopted by the State  
37 Board of Education as having a disability classified as:

38 (I) autism;

39 (II) deafness;

40 (III) preschool developmental delay;

41 (IV) dual sensory impairment;

42 (V) hearing impairment;

43 (VI) intellectual disability;

44 (VII) multidisability;

45 (VIII) orthopedic impairment;

46 (IX) other health impairment;

47 (X) traumatic brain injury; or

48 (XI) visual impairment;

49 (B) is not receiving residential services from:

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

51 or

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

53 (C) is enrolled in:

54 (I) an education program for students with disabilities that is authorized under Section  
55 53A-15-301; or

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

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

58 (A) Early Intervention; or

59 (B) Infant Development Services.

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

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

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

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

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

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

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

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

75 (j) "Resident individual" means:

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

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

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

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

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

86 (C) a trust administered in this state.

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

89 (A) the place of business where the fiduciary transacts a major portion of its administration

90 of the trust is in this state; or

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

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

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

97 ~~[(1) "Taxable income" and "state taxable income" are defined as provided in Sections  
98 59-10-111, 59-10-112, 59-10-116, 59-10-201.1, and 59-10-204.]~~

99 ~~[(m)]~~ (1) "Taxpayer" means any individual, estate, or trust or beneficiary of an estate or  
100 trust, whose income is subject in whole or part to the tax imposed by this chapter.

101 (2) Any term used in this chapter has the same meaning as when used in comparable  
102 context in the laws of the United States relating to federal income taxes unless a different meaning  
103 is clearly required. Any reference to the Internal Revenue Code or to the laws of the United States  
104 shall mean the Internal Revenue Code or other provisions of the laws of the United States relating  
105 to federal income taxes which are in effect for the taxable year. Any reference to a specific section  
106 of the Internal Revenue Code or other provision of the laws of the United States relating to federal  
107 income taxes shall include any corresponding or comparable provisions of the Internal Revenue  
108 Code as hereafter amended, redesignated, or reenacted.

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

110 **59-10-104. Tax basis -- Rates.**

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

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

117 <del>[If the state taxable income is:]</del>	<del>[The tax is:]</del>
118 <del>[Less than or equal to \$750]</del>	<del>[2.55% of the state taxable income]</del>
119 <del>[Greater than \$750 but less than or equal 120 [to \$1,500]</del>	<del>[\$19, plus 3.5% of state taxable income] [greater than \$750]</del>

121	[Greater than \$1,500 but less than or equal]	[\$45, plus 4.4% of state taxable income]
122	[to \$2,250]	[greater than \$1,500]
123	[Greater than \$2,250 but less than or equal]	[\$78, plus 5.35% of state taxable income]
124	[to \$3,000]	[greater than \$2,250]
125	[Greater than \$3,000 but less than or equal]	[\$119, plus 6% of state taxable income]
126	[to \$3,750]	[greater than \$3,000]
127	[Greater than \$3,750]	[\$164, plus 7% of state taxable income]
128		[greater than \$3,750]

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

132	[If the state taxable income is:]	[The tax is:]
133	[Less than or equal to \$1,500]	[2.55% of the state taxable income]
134	[Greater than \$1,500 but less than or equal]	[\$38, plus 3.5% of state taxable income]
135	[to \$3,000]	[greater than \$1,500]
136	[Greater than \$3,000 but less than or equal]	[\$91, plus 4.4% of state taxable income]
137	[to \$4,500]	[greater than \$3,000]
138	[Greater than \$4,500 but less than or equal]	[\$157, plus 5.35% of state taxable income]
139	[to \$6,000]	[greater than \$4,500]
140	[Greater than \$6,000 but less than or equal]	[\$237, plus 6% of state taxable income]
141	[to \$7,500]	[greater than \$6,000]
142	[Greater than \$7,500]	[\$327, plus 7% of state taxable income]
143		[greater than \$7,500]

144 ~~[(2)]~~ For taxable years beginning on or after January 1, 1997, a tax is imposed on the state  
 145 taxable income, as defined in Section 59-10-112, of every resident individual as ~~[follows:]~~  
 146 provided in Subsections (1) and (2).

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

150	If the state taxable income is:	The tax is:
151	Less than or equal to \$750	2.3% of the state taxable income

152	Greater than \$750 but less than or equal	\$17, plus 3.3% of state taxable income
153	to \$1,500	greater than \$750
154	Greater than \$1,500 but less than or equal	\$42, plus 4.2% of state taxable income
155	to \$2,250	greater than \$1,500
156	Greater than \$2,250 but less than or equal	\$74, plus 5.2% of state taxable income
157	to \$3,000	greater than \$2,250
158	Greater than \$3,000 but less than or equal	\$113, plus 6% of state taxable income
159	to \$3,750	greater than \$3,000
160	Greater than \$3,750	\$158, plus 7% of state taxable income
161		greater than \$3,750

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

165	If the state taxable income is:	The tax is:
166	Less than or equal to \$1,500	2.3% of the state taxable income
167	Greater than \$1,500 but less than or equal	\$35, plus 3.3% of state taxable income
168	to \$3,000	greater than \$1,500
169	Greater than \$3,000 but less than or equal	\$84, plus 4.2% of state taxable income
170	to \$4,500	greater than \$3,000
171	Greater than \$4,500 but less than or equal	\$147, plus 5.2% of state taxable income
172	to \$6,000	greater than \$4,500
173	Greater than \$6,000 but less than or equal	\$225, plus 6% of state taxable income
174	to \$7,500	greater than \$6,000
175	Greater than \$7,500	\$315, plus 7% of state taxable income
176		greater than \$7,500

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

178        **59-10-111. Federal taxable income defined.**

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

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

182        **59-10-112. State taxable income of resident individual.**

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

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

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

190           **59-10-114. Additions to and subtractions from federal taxable income of an**  
 191 **individual.**

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

195           (a) (i) except as provided in Subsection (1)(a)(ii), if an individual subtracts from the  
 196 individual's federal adjusted gross income the amount described in Subsection (2)(m)(ii), the  
 197 individual shall add to the individual's federal adjusted gross income the amount of any income  
 198 tax imposed by [this or any predecessor Utah individual income tax law and the amount of any  
 199 income tax imposed by]:

200           (A) this chapter; or

201           (B) the laws of;

202           (I) another state[;];

203           (II) the District of Columbia[;]; or

204           (III) a possession of the United States[; to the extent deducted from federal adjusted gross  
 205 income, as defined by Section 62, Internal Revenue Code, in determining federal taxable income];  
 206 and

207           (ii) notwithstanding Subsection (1)(a)(i), an individual shall add the amount described in  
 208 Subsection (1)(a)(i) to the individual's federal adjusted gross income only to the extent that the  
 209 individual deducts the amount described in Subsection (1)(a)(i):

210           (A) on the individual's federal individual income tax return for the taxable year; and

211           (B) in determining federal taxable income;

212           (b) a lump sum distribution allowable as a deduction under Section [402(e)(3)] 402(d)(3),  
 213 Internal Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code,

214 in determining federal adjusted gross income;

215 ~~[(c) 25% of the personal exemptions, as defined and calculated in the Internal Revenue~~  
216 ~~Code;]~~

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

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

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

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

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

227 (a) (i) ~~[the]~~ to the extent the interest or dividends are includable in gross income for federal  
228 income tax purposes but exempt from state income taxes under the laws of the United States,  
229 interest or dividends on obligations or securities of:

230 (A) the United States [and] or its possessions; or [of any]

231 (B) an authority, commission, or instrumentality of the United States~~[-to the extent~~  
232 ~~includable in gross income for federal income tax purposes but exempt from state income taxes~~  
233 ~~under the laws of the United States, but]; and~~

234 (ii) the amount subtracted under [this] Subsection (2)(a)(i) shall be reduced by any:

235 (A) interest on indebtedness incurred or continued to purchase or carry the obligations or  
236 securities described in [this] Subsection~~[-];~~ (2)(a)(i); and [by any]

237 (B) expenses incurred in the production of interest or dividend income described in [this]  
238 Subsection (2)(a)(i) to the extent that [such] the expenses, including amortizable bond premiums,  
239 are deductible in determining federal taxable income;

240 (b) 1/2 of the net amount of any income tax paid or payable to the United States after  
241 subtracting all allowable credits, as reported on the United States individual income tax return of  
242 the [taxpayer] individual for the same taxable year;

243 (c) the amount of adoption expenses which, for purposes of this Subsection (2)(c), means  
244 any actual medical and hospital expenses of the mother of the adopted child which are incident to



245 the child's birth and any welfare agency, child placement service, legal, and other fees or costs  
 246 relating to the adoption;

247 (d) subject to Subsection (3), amounts received by [taxpayers] an individual under age 65  
 248 as retirement income which, for purposes of this section, means pensions and annuities, paid from  
 249 an annuity contract;

250 (i) purchased by:

251 (A) an employer under a plan which meets the requirements of Section 404 (a)(2), Internal  
 252 Revenue Code[-]; or [purchased by]

253 (B) an employee under a plan which meets the requirements of Section 408, Internal  
 254 Revenue Code[-]; or

255 (ii) paid to an employee or the employee's surviving spouse by:

256 (A) the United States[-];

257 (B) a state[-or];

258 (C) a political subdivision [thereof,] of a state; or

259 (D) the District of Columbia[-to the employee involved or the surviving spouse];

260 (e) subject to Subsection (3), for each [taxpayer] individual age 65 or over before the close  
 261 of the taxable year, a \$7,500 personal retirement exemption;

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

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

269 (h) subject to [~~the limitations of~~] Subsection [(3)(e)] (4), amounts [a taxpayer] an  
 270 individual pays during the taxable year for health care insurance, as defined in Title 31A, Chapter  
 271 1, General Provisions:

272 (i) for:

273 (A) the [taxpayer] individual;

274 (B) the [taxpayer's] individual's spouse; and

275 (C) the [taxpayer's] individual's dependents; and

276 (ii) to the extent the [taxpayer] individual does not deduct the amounts under Section 125,  
277 162, or 213, Internal Revenue Code, in determining federal taxable income for the taxable year;

278 (i) [~~except as otherwise provided in this subsection~~] subject to Subsection (5), the amount  
279 of:

280 (i) a contribution made [~~in the tax year~~] on behalf of [~~the taxpayer~~] an individual to a  
281 medical care savings account; and

282 (ii) interest earned on a contribution to a medical care savings account established pursuant  
283 to Title 31A, Chapter [~~32~~] 32a, Medical Care Savings Account Act[~~, to the extent the contribution~~  
284 is accepted by the account administrator as provided in the Medical Care Savings Account Act,  
285 and if the taxpayer did not deduct or include amounts on his federal tax return pursuant to Section  
286 220, Internal Revenue Code. ~~A contribution deductible under this subsection may not exceed~~  
287 ~~either of the following:~~];

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

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

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

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

296 (j) the amount included in federal taxable income that was derived from money paid by  
297 the [taxpayer] individual to the program fund under Title 53B, Chapter 8a, Higher Education  
298 Savings Incentive Program, not to exceed amounts determined under Subsection 53B-8a-106(1)(d)  
299 and investment income earned on participation agreements under Subsection 53B-8a-106(1) when  
300 used for higher education costs of the beneficiary; [~~and]~~

301 (k) for [~~tax~~] taxable years beginning on or after January 1, 2000, any amounts paid for  
302 premiums [~~on~~] for long-term care insurance [~~policies~~] as defined in Section 31A-22-1402 to the  
303 extent the amounts paid for long-term care insurance were not deducted under Section 213,  
304 Internal Revenue Code, in determining federal taxable income[~~:-~~];

305 (l) 75% of the amount of personal exemptions the individual is allowed for the taxable year  
306 under Section 151, Internal Revenue Code, for:

- 307           (i) the individual;  
308           (ii) the individual's spouse; and  
309           (iii) the individual's dependents; and  
310           (m) regardless of whether an individual claims the federal standard deduction or itemizes  
311 deductions on the individual's federal individual income tax return for the taxable year, the  
312 individual shall elect to subtract from the individual's federal adjusted gross income for the taxable  
313 year either:
- 314           (i) the amount of the federal standard deduction the individual is allowed for the taxable  
315 year; or
- 316           (ii) the amount of the federal itemized deduction the individual is allowed for the taxable  
317 year.
- 318           (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted for  
319 [taxpayers] an individual under 65 shall be the lesser of the amount included in federal taxable  
320 income, or \$4,800, except that:
- 321           (i) for married [taxpayers] individuals filing joint returns, for each \$1 of adjusted gross  
322 income earned over \$32,000, the amount of the retirement income exemption that may be  
323 subtracted shall be reduced by 50 cents;
- 324           (ii) for married [taxpayers] individuals filing separate returns, for each \$1 of adjusted gross  
325 income earned over \$16,000, the amount of the retirement income exemption that may be  
326 subtracted shall be reduced by 50 cents; and
- 327           (iii) for [~~individual taxpayers~~] an individual filing as a single taxpayer, for each \$1 of  
328 adjusted gross income earned over \$25,000, the amount of the retirement income exemption that  
329 may be subtracted shall be reduced by 50 cents.
- 330           (b) For purposes of Subsection (2)(e), the amount of the personal retirement exemption  
331 shall be further reduced according to the following schedule:
- 332           (i) for married [taxpayers] individuals filing joint returns, for each \$1 of adjusted gross  
333 income earned over \$32,000, the amount of the personal retirement exemption shall be reduced  
334 by 50 cents;
- 335           (ii) for married [taxpayers] individuals filing separate returns, for each \$1 of adjusted gross  
336 income earned over \$16,000, the amount of the personal retirement exemption shall be reduced  
337 by 50 cents; and

338 (iii) for ~~[individual taxpayers]~~ an individual filing as a single taxpayer, for each \$1 of  
339 adjusted gross income earned over \$25,000, the amount of the personal retirement exemption shall  
340 be reduced by 50 cents.

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

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

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

349 ~~[(e)]~~ (4) For purposes of Subsection (2)(h), a subtraction for an amount paid for health care  
350 insurance as defined in Title 31A, Chapter 1, General Provisions, is not allowed:

351 ~~[(f)]~~ (a) for an amount that is reimbursed or funded in whole or in part by:

352 (i) the ~~[federal government,]~~ United States;

353 (ii) the state~~[-];~~ or

354 (iii) an agency or instrumentality of:

355 (A) the ~~[federal government]~~ United States; or

356 (B) the state; and

357 ~~[(f)]~~ (b) for ~~[a taxpayer]~~ an individual who is eligible to participate in a health plan  
358 maintained and funded in whole or in part by the ~~[taxpayer's]~~ individual's employer or the  
359 ~~[taxpayer's]~~ individual's spouse's employer.

360 (5) (a) An individual may subtract from the individual's federal taxable income a  
361 contribution or interest earned on a contribution under Subsection (2)(i):

362 (i) to the extent the contribution is accepted by the account administrator as provided in  
363 Title 31A, Chapter 32a, Medical Care Savings Account Act; and

364 (ii) if the individual did not deduct or include the amounts of the contribution or interest  
365 earned on the contribution on the individual's federal individual income tax return pursuant to  
366 Section 220, Internal Revenue Code.

367 (b) A contribution subtracted from federal taxable income under Subsection (2)(i) may not  
368 exceed:

- 369 (i) for an individual described in Subsection (5)(c), the product of:  
 370 (A) the maximum contribution allowed under Title 31A, Chapter 32a, Medical Care  
 371 Savings Account Act, for the taxable year; and  
 372 (B) two; or  
 373 (ii) for an individual described in Subsection (5)(d), the maximum contribution allowed  
 374 under Title 31A, Chapter 32a, Medical Care Savings Account Act, for the taxable year.  
 375 (c) A contribution subtracted from federal taxable income under Subsection (2)(i) may not  
 376 exceed the amount described in Subsection (5)(b)(i) for an individual filing a joint return if:  
 377 (i) neither spouse filing the joint return is covered by:  
 378 (A) health care insurance as defined in Section 31A-1-301; or  
 379 (B) a self-funded plan that covers the other spouse; and  
 380 (ii) each spouse filing the joint return has a medical care savings account.

381 (d) A contribution subtracted from federal taxable income under Subsection (2)(i) may not  
 382 exceed the amount described in Subsection (5)(b)(ii) for an individual who:

- 383 (i) does not file a joint return; or  
 384 (ii) files a joint return, but does not meet the requirements of Subsection (5)(c).

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

386 **59-10-116. Tax on nonresident individual's state taxable income.**

387 A tax is [hereby] imposed on the state taxable income, as defined in [Sections 59-10-111  
 388 and] Section 59-10-112, of every nonresident individual in accordance with the schedules in  
 389 Section 59-10-104, [but] except that the individual's Utah tax shall be only the portion of the  
 390 resident tax [~~so calculated as~~] that the individual's federal adjusted gross income received from  
 391 Utah sources [~~(determined under Section 59-10-117)(7)] for taxable year bears to the individual's  
 392 total federal adjusted gross income for the same taxable year.~~

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

394 **59-10-117. Federal adjusted gross income derived from Utah sources.**

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

- 398 (a) the ownership in this state of any interest in real or tangible personal property  
 399 [~~(including real property or property rights from which "gross income from mining" as defined~~

400 by Section 613(c) [~~of the~~], Internal Revenue Code, is derived[]]; or

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

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

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

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

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

413 (d) A nonresident shareholder's distributive share of ordinary income, gain, loss, and  
414 deduction derived from or connected with Utah sources shall be determined under Section  
415 59-10-118.

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

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

423 (g) A nonresident partner's distributive share of partnership income, gain, loss, and  
424 deduction derived from or connected with Utah sources shall be determined under Section  
425 59-10-303.

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

429 (i) Any dividend, interest, or distributive share of income, gain, or loss from a real estate  
430 investment trust, as defined in Section [~~59-7-116.5~~] 856, Internal Revenue Code, distributed or

431 allocated to a nonresident investor in the trust, including any shareholder, beneficiary, or owner  
432 of a beneficial interest in the trust, shall;

433 (A) be income from intangible personal property under Subsection (2)(a)[,]; and [shall]

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

437 Section 8. **Effective date.**

438 This act takes effect for taxable years beginning on or after January 1, 2001.

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**Legislative Review Note**  
**as of 2-10-00 1:32 PM**

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

**Office of Legislative Research and General Counsel**