

**INDIVIDUAL INCOME TAX - ADDITION OF  
INTEREST TO FEDERAL TAXABLE INCOME**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Greg J. Curtis**

**This act modifies the Revenue and Tax Code to provide that interest on certain indebtedness of other states is subject to individual state income taxation. This act makes technical changes.**

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

AMENDS:

**59-10-114**, as last amended by Chapter 257, Laws of Utah 2000

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

Section 1. Section **59-10-114** is amended to read:

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

(1) There shall be added to federal taxable income of a resident or nonresident individual:

(a) the amount of any income tax imposed by this or any predecessor Utah individual income tax law and the amount of any income tax imposed by the laws of another state, the District of Columbia, or a possession of the United States, to the extent deducted from federal adjusted gross income, as defined by Section 62, Internal Revenue Code, in determining federal taxable income;

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

(c) 25% of the personal exemptions, as defined and calculated in the Internal Revenue Code;

(d) a withdrawal from a medical care savings account and any penalty imposed in the



28 taxable year if:

29 (i) the taxpayer did not deduct or include the amounts on his federal tax return pursuant  
30 to Section 220, Internal Revenue Code; and

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

32 (e) the amount refunded to a participant under Title 53B, Chapter 8a, Higher Education  
33 Savings Incentive Program, in the year in which the amount is refunded[-]; and

34 (f) for taxable years beginning on or after January 1, 2002, interest from bonds, notes and  
35 other evidences of indebtedness issued on or after January 1, 2002 by:

36 (i) a state other than this state;

37 (ii) the District of Columbia;

38 (iii) a possession of the United States;

39 (iv) a political subdivision of a state other than this state; or

40 (v) an agency or instrumentality of an entity described in Subsections (1)(f)(i) through (iv).

41 (2) There shall be subtracted from federal taxable income of a resident or nonresident  
42 individual:

43 (a) the interest or dividends on obligations or securities of the United States [~~and its~~  
44 ~~possessions~~] or of any authority, commission, or instrumentality of the United States, to the extent  
45 includable in gross income for federal income tax purposes but exempt from state income taxes  
46 under the laws of the United States, but the amount subtracted under this Subsection (2)(a) shall  
47 be reduced by any interest on indebtedness incurred or continued to purchase or carry the  
48 obligations or securities described in this Subsection (2)(a), and by any expenses incurred in the  
49 production of interest or dividend income described in this Subsection (2)(a) to the extent that such  
50 expenses, including amortizable bond premiums, are deductible in determining federal taxable  
51 income;

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

55 (c) the amount of adoption expenses which, for purposes of this Subsection (2)(c), means  
56 any actual medical and hospital expenses of the mother of the adopted child which are incident to  
57 the child's birth and any welfare agency, child placement service, legal, and other fees or costs  
58 relating to the adoption;

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

65 (e) for each taxpayer age 65 or over before the close of the taxable year, a \$7,500 personal  
66 retirement exemption;

67 (f) 75% of the amount of the personal exemption, as defined and calculated in the Internal  
68 Revenue Code, for each dependent child with a disability and adult with a disability who is  
69 claimed as a dependent on a taxpayer's return;

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

74 (h) subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during the  
75 taxable year for health care insurance, as defined in Title 31A, Chapter 1, General Provisions:

76 (i) for:

77 (A) the taxpayer;

78 (B) the taxpayer's spouse; and

79 (C) the taxpayer's dependents; and

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

82 (i) ~~(i)~~ except as otherwise provided in this Subsection ~~(2)(i)~~, the amount of a contribution  
83 made ~~[in]~~ during the ~~[tax]~~ taxable year on behalf of the taxpayer to a medical care savings account  
84 and interest earned on a contribution to a medical care savings account established pursuant to  
85 Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the contribution is  
86 accepted by the account administrator as provided in the Medical Care Savings Account Act, and  
87 if the taxpayer did not deduct or include amounts on ~~[his]~~ the taxpayer's federal individual income  
88 tax return pursuant to Section 220, Internal Revenue Code~~[-A]~~; and

89 (ii) a contribution deductible under this subsection may not exceed either of the following:

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

94           ~~[(i)]~~ (B) the maximum contribution allowed under the Medical Care Savings Account Act  
95 for the tax year for taxpayers:

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

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

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

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

107           (l) for taxable years beginning on or after January 1, 2000, if the conditions of Subsection  
108 (4)(a) are met, the amount of income derived by a Ute tribal member:

109           (i) during a time period that the Ute tribal member resides on homesteaded land  
110 diminished from the Uintah and Ouray Reservation; and

111           (ii) from a source within the Uintah and Ouray Reservation.

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

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

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

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

124 (b) For purposes of Subsection (2)(e), the amount of the personal retirement exemption  
125 shall be further reduced according to the following schedule:

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

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

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

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

136 (d) For purposes of determining ownership of items of retirement income common law  
137 doctrine will be applied in all cases even though some items may have originated from service or  
138 investments in a community property state. Amounts received by the spouse of a living retiree  
139 because of the retiree's having been employed in a community property state are not deductible as  
140 retirement income of such spouse.

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

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

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

147 (4) (a) A subtraction for an amount described in Subsection (2)(l) is allowed only if:

148 (i) the taxpayer is a Ute tribal member; and

149 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the  
150 requirements of this Subsection (4).

151 (b) The agreement described in Subsection (4)(a):

- 152 (i) may not:
- 153 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
- 154 (B) provide a subtraction under this section greater than or different from the subtraction
- 155 described in Subsection (2)(1); or
- 156 (C) affect the power of the state to establish rates of taxation; and
- 157 (ii) shall:
- 158 (A) provide for the implementation of the subtraction described in Subsection (2)(1);
- 159 (B) be in writing;
- 160 (C) be signed by:
- 161 (I) the governor; and
- 162 (II) the chair of the Business Committee of the Ute tribe;
- 163 (D) be conditioned on obtaining any approval required by federal law; and
- 164 (E) state the effective date of the agreement.
- 165 (c) (i) The governor shall report to the commission by no later than February 1 of each year
- 166 regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.
- 167 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
- 168 subtraction permitted under Subsection (2)(1) is not allowed for taxable years beginning on or after
- 169 the January 1 following the termination of the agreement.
- 170 (d) For purposes of Subsection (2)(1) and in accordance with Title 63, Chapter 46a, Utah
- 171 Administrative Rulemaking Act, the commission may make rules:
- 172 (i) for determining whether income is derived from a source within the Uintah and Ouray
- 173 Reservation; and
- 174 (ii) that are substantially similar to how federal adjusted gross income derived from Utah
- 175 sources is determined under Section 59-10-117.

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**Legislative Review Note**  
**as of 2-1-01 10:51 AM**

For purposes of the individual income tax, this legislation taxes interest from certain state and local bonds, notes, or other debts ("interest on debts") that are issued out of state while not taxing interest on debts issued in Utah. This differential taxation of interest on debts might be challenged as discriminatory under the Commerce Clause of the Constitution of the United States ("Commerce Clause"). Legal arguments exist in favor of and against the constitutionality of this legislation. However, a limited legal review of this issue has found that a distinct majority of states tax interest on debts in a manner similar to this legislation, and that at least one court, the Ohio Court of Appeals, has upheld a similar tax which was challenged under the Commerce Clause.

**Office of Legislative Research and General Counsel**