

1 **INDIVIDUAL INCOME TAX - PERSONAL**

2 **EXEMPTIONS AMENDMENTS**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Kory M. Holdaway**

6 **This act modifies the Individual Income Tax Act to change the percentage of federal personal**
7 **exemptions that a resident or nonresident individual adds to federal taxable income for state**
8 **individual income tax purposes. The act makes technical changes. This act has retrospective**
9 **operation for taxable years beginning on or after January 1, 2001.**

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

11 AMENDS:

12 **59-10-114**, as last amended by Chapter 257, Laws of Utah 2000

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

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

15 **59-10-114. Additions to and subtractions from federal taxable income of an**
16 **individual.**

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

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

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

26 (c) ~~[25% of the]~~ for taxable years beginning on or after January 1, 2001, the amount of
27 personal exemptions~~[- as defined and calculated in the Internal Revenue Code]~~ calculated under



28 Subsection (5):

29 (d) a withdrawal from a medical care savings account and any penalty imposed in the
30 taxable year if:

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

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

34 (e) the amount refunded to a participant under Title 53B, Chapter 8a, Higher Education
35 Savings Incentive Program, in the year in which the amount is refunded.

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

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

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

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

54 (d) amounts received by taxpayers under age 65 as retirement income which, for purposes
55 of this section, means pensions and annuities, paid from an annuity contract purchased by an
56 employer under a plan which meets the requirements of Section 404(a)(2), Internal Revenue Code,
57 or purchased by an employee under a plan which meets the requirements of Section 408, Internal
58 Revenue Code, or paid by the United States, a state, or political subdivision thereof, or the District

59 of Columbia, to the employee involved or the surviving spouse;

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

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

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

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

71 (i) for:

72 (A) the taxpayer;

73 (B) the taxpayer's spouse; and

74 (C) the taxpayer's dependents; and

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

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

84 (ii) a contribution deductible under this Subsection (2)(i) may not exceed either of the
85 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

120 (b) For purposes of Subsection (2)(e), the amount of the personal retirement exemption

121 shall be further reduced according to the following schedule:

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

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

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

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

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

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

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

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

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

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

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

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

148 (i) may not:

149 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

150 (B) provide a subtraction under this section greater than or different from the subtraction
151 described in Subsection (2)(l); or

152 (C) affect the power of the state to establish rates of taxation; and
153 (ii) shall:
154 (A) provide for the implementation of the subtraction described in Subsection (2)(1);
155 (B) be in writing;
156 (C) be signed by:
157 (I) the governor; and
158 (II) the chair of the Business Committee of the Ute tribe;
159 (D) be conditioned on obtaining any approval required by federal law; and
160 (E) state the effective date of the agreement.
161 (c) (i) The governor shall report to the commission by no later than February 1 of each year
162 regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.
163 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
164 subtraction permitted under Subsection (2)(1) is not allowed for taxable years beginning on or after
165 the January 1 following the termination of the agreement.
166 (d) For purposes of Subsection (2)(1) and in accordance with Title 63, Chapter 46a, Utah
167 Administrative Rulemaking Act, the commission may make rules:
168 (i) for determining whether income is derived from a source within the Uintah and Ouray
169 Reservation; and
170 (ii) that are substantially similar to how federal adjusted gross income derived from Utah
171 sources is determined under Section 59-10-117.
172 (5) (a) For purposes of Subsection (1)(c) and this Subsection (5), "personal exemption"
173 means a personal exemption a resident or nonresident individual may claim under Section 151,
174 Internal Revenue Code, for:
175 (i) the individual;
176 (ii) the individual's spouse; and
177 (iii) the individual's dependents.
178 (b) For purposes of Subsection (1)(c), a resident or nonresident individual shall add the
179 following amounts to the individual's federal taxable income:
180 (i) for an individual claiming two or fewer personal exemptions, 20% of the total dollar
181 amount allowed under Section 151, Internal Revenue Code, for the individual's personal
182 exemptions; or

183 (ii) for an individual claiming three or more personal exemptions, 30% of the total dollar
184 amount allowed under Section 151, Internal Revenue Code, for the individual's personal
185 exemptions.

186 Section 2. **Retrospective operation.**

187 This act has retrospective operation for taxable years beginning on or after January 1, 2001.

Legislative Review Note
as of 2-1-01 10:20 AM

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

Office of Legislative Research and General Counsel