

1 **INDIVIDUAL INCOME TAX - ADDITIONS**
2 **TO FEDERAL TAXABLE INCOME**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: John L. Valentine**

6 **This act modifies the Individual Income Tax Act by amending an addition to federal taxable**
7 **income for certain lump sum distributions, requiring an addition to federal taxable income**
8 **for certain amounts of a child's income, and making technical changes. This act has**
9 **retrospective 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]~~ that the taxpayer does not include in adjusted gross income on
26 the taxpayer's federal individual income tax return for the taxable year;

27 (c) for taxable years beginning on or after January 1, 2002, the amount of a child's income

28 calculated under Subsection (5) that:

29 (i) a parent elects to report on the parent's federal individual income tax return for the
30 taxable year; and

31 (ii) the parent does not include in adjusted gross income on the parent's federal individual
32 income tax return for the taxable year;

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

35 [~~(d)~~] (e) a withdrawal from a medical care savings account and any penalty imposed in the
36 taxable year if:

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

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

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

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

44 (a) the interest or dividends on obligations or securities of the United States and its
45 possessions or of any authority, commission, or instrumentality of the United States, to the extent
46 includable in gross income for federal income tax purposes but exempt from state income taxes
47 under the laws of the United States, but the amount subtracted under this subsection shall be
48 reduced by any interest on indebtedness incurred or continued to purchase or carry the obligations
49 or securities described in this subsection, and by any expenses incurred in the production of
50 interest or dividend income described in this subsection to the extent that such expenses, including
51 amortizable bond premiums, are deductible in determining federal taxable 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, means any
56 actual medical and hospital expenses of the mother of the adopted child which are incident to the
57 child's birth and any welfare agency, child placement service, legal, and other fees or costs relating
58 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) except as otherwise provided in this subsection, the amount of a contribution made in
83 the tax year on behalf of the taxpayer to a medical care savings account and interest earned on a
84 contribution to a medical care savings account established pursuant to Title 31A, Chapter 32a,
85 Medical Care Savings Account Act, to the extent the contribution is accepted by the account
86 administrator as provided in the Medical Care Savings Account Act, and if the taxpayer did not
87 deduct or include amounts on his federal tax return pursuant to Section 220, Internal Revenue
88 Code. A contribution deductible under this subsection may not exceed either of the following:

89 (i) the maximum contribution allowed under the Medical Care Savings Account Act for

90 the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is covered by
91 health care insurance as defined in Section 31A-1-301 or self-funded plan that covers the other
92 spouse, and each spouse has a medical care savings account; or

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

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

96 (B) who file a joint return, but do not qualify under Subsection (2)(i)(i); and

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

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

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

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

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

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

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

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

120 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over \$25,000,

121 the amount of the retirement income exemption that may be subtracted shall be reduced by 50
122 cents.

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

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

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

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

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

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

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

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

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

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

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

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

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

151 (i) may not:

- 152 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
- 153 (B) provide a subtraction under this section greater than or different from the subtraction
- 154 described in Subsection (2)(1); or
- 155 (C) affect the power of the state to establish rates of taxation; and
- 156 (ii) shall:
 - 157 (A) provide for the implementation of the subtraction described in Subsection (2)(1);
 - 158 (B) be in writing;
 - 159 (C) be signed by:
 - 160 (I) the governor; and
 - 161 (II) the chair of the Business Committee of the Ute tribe;
 - 162 (D) be conditioned on obtaining any approval required by federal law; and
 - 163 (E) state the effective date of the agreement.
- 164 (c) (i) The governor shall report to the commission by no later than February 1 of each year
- 165 regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.
- 166 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
- 167 subtraction permitted under Subsection (2)(1) is not allowed for taxable years beginning on or after
- 168 the January 1 following the termination of the agreement.
- 169 (d) For purposes of Subsection (2)(1) and in accordance with Title 63, Chapter 46a, Utah
- 170 Administrative Rulemaking Act, the commission may make rules:
 - 171 (i) for determining whether income is derived from a source within the Uintah and Ouray
 - 172 Reservation; and
 - 173 (ii) that are substantially similar to how federal adjusted gross income derived from Utah
 - 174 sources is determined under Section 59-10-117.
- 175 (5) (a) For purposes of this Subsection (5), "Form 8814" means:
 - 176 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's
 - 177 Interest and Dividends; or
 - 178 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by the
 - 179 commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to 2000
 - 180 Form 8814 if for purposes of federal individual income taxes the information contained on 2000
 - 181 Form 8814 is reported on a form other than Form 8814; and
 - 182 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter 46a,

183 Utah Administrative Rulemaking Act, the commission may make rules designating a form as being
184 substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the
185 information contained on 2000 Form 8814 is reported on a form other than Form 8814.

186 (b) The amount of a child's income added to adjusted gross income under Subsection (1)(c)
187 is equal to the difference between:

188 (i) the lesser of:

189 (A) the base amount specified on Form 8814; and

190 (B) the sum of the following reported on Form 8814:

191 (I) the child's taxable interest;

192 (II) the child's ordinary dividends; and

193 (III) the child's capital gain distributions; and

194 (ii) the amount not taxed that is specified on Form 8814.

195 **Section 2. Retrospective operation.**

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

Legislative Review Note

as of 11-14-00 10:08 AM

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 recommended this bill.