

1 **INDIVIDUAL INCOME TAX PERSONAL RETIREMENT**
2 **EXEMPTION AND DEDUCTION FOR RETIREMENT**
3 **INCOME - ELIMINATING MARRIAGE TAX PENALTIES**

4 2002 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Wayne A. Harper**

7 **This act amends the Individual Income Tax Act to modify the adjusted gross income**
8 **amounts at which the subtraction from federal taxable income for retirement income and**
9 **the personal retirement exemption are reduced. The act clarifies the subtraction from**
10 **federal taxable income for retirement income and the personal retirement exemption, and**
11 **makes technical changes. This act takes effect for taxable years beginning on or after**
12 **January 1, 2003.**

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

14 AMENDS:

15 **59-10-114**, as last amended by Chapters 7 and 9, Laws of Utah 2001, First Special Session

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

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

18 **59-10-114. Additions to and subtractions from federal taxable income of an**
19 **individual.**

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

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

26 (b) a lump sum distribution that the taxpayer does not include in adjusted gross income
27 on the taxpayer's federal individual income tax return for the taxable year;



28 (c) for taxable years beginning on or after January 1, 2002, the amount of a child's income
29 calculated under Subsection (5) that:

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

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

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

36 (e) a withdrawal from a medical care savings account and any penalty imposed in the
37 taxable year if:

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

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

41 (f) the amount refunded to a participant under Title 53B, Chapter 8a, Higher Education
42 Savings Incentive Program, in the year in which the amount is refunded; and

43 (g) except as provided in Subsection (6), for taxable years beginning on or after January
44 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after January 1,
45 2003, the interest from bonds, notes, and other evidences of indebtedness issued by one or more
46 of the following entities:

47 (i) a state other than this state;

48 (ii) the District of Columbia;

49 (iii) a political subdivision of a state other than this state; or

50 (iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i) through
51 (iii).

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

54 (a) the interest or dividends on obligations or securities of the United States and its
55 possessions or of any authority, commission, or instrumentality of the United States, to the extent
56 includable in gross income for federal income tax purposes but exempt from state income taxes
57 under the laws of the United States, but the amount subtracted under this Subsection (2)(a) shall
58 be reduced by any interest on indebtedness incurred or continued to purchase or carry the

59 obligations or securities described in this Subsection (2)(a), and by any expenses incurred in the
60 production of interest or dividend income described in this Subsection (2)(a) to the extent that such
61 expenses, including amortizable bond premiums, are deductible in determining federal taxable
62 income;

63 (b) (i) except as provided in Subsection (2)(b)(ii), 1/2 of the net amount of any income tax
64 paid or payable to the United States after all allowable credits, as reported on the United States
65 individual income tax return of the taxpayer for the same taxable year; and

66 (ii) notwithstanding Subsection (2)(b)(i), for taxable years beginning on or after January
67 1, 2001, the amount of a credit or an advance refund amount reported on a resident or nonresident
68 individual's United States individual income tax return allowed as a result of the acceleration of
69 the income tax rate bracket benefit for 2001 in accordance with Section 101, Economic Growth
70 and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, may not be used in calculating the
71 amount described in Subsection (2)(b)(i);

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

76 (d) subject to Subsection (3), for an individual who is under 65 years old on the last day
77 of the individual's taxable year, or for the individual's surviving spouse as defined in Subsection
78 (3) who is under 65 years old on the last day of the individual's surviving spouse's taxable year,
79 ~~amounts received [by taxpayers under age 65] as retirement income [which, for purposes of this~~
80 ~~section, means pensions and annuities, paid from an annuity contract purchased by an employer~~
81 ~~under a plan which meets the requirements of Section 404(a)(2), Internal Revenue Code, or~~
82 ~~purchased by an employee under a plan which meets the requirements of Section 408, Internal~~
83 ~~Revenue Code, or paid by the United States, a state, or political subdivision thereof, or the District~~
84 ~~of Columbia, to the employee involved or the surviving spouse] as defined in Subsection (3);~~

85 (e) subject to Subsection (3), for each [taxpayer age] individual 65 years old or [over] older
86 before the [close] last day of the individual's taxable year, a \$7,500 personal retirement exemption;

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

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

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

96 (i) for:

97 (A) the taxpayer;

98 (B) the taxpayer's spouse; and

99 (C) the taxpayer's dependents; and

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

102 (i) (i) except as otherwise provided in this Subsection (2)(i), the amount of a contribution
103 made during the taxable year on behalf of the taxpayer to a medical care savings account and
104 interest earned on a contribution to a medical care savings account established pursuant to Title
105 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the contribution is accepted
106 by the account administrator as provided in the Medical Care Savings Account Act, and if the
107 taxpayer did not deduct or include amounts on the taxpayer's federal individual income tax return
108 pursuant to Section 220, Internal Revenue Code; and

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

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

115 (B) the maximum contribution allowed under the Medical Care Savings Account Act for
116 the tax year for taxpayers:

117 (I) who do not file a joint return; or

118 (II) who file a joint return, but do not qualify under Subsection (2)(i)(i)(A); ~~and~~

119 (j) the amount included in federal taxable income that was derived from money paid by
120 the taxpayer to the program fund under Title 53B, Chapter 8a, Higher Education Savings Incentive

121 Program, not to exceed amounts determined under Subsection 53B-8a-106(1)(d) and investment
122 income earned on participation agreements under Subsection 53B-8a-106(1) when used for higher
123 education costs of the beneficiary;

124 (k) for taxable years beginning on or after January 1, 2000, any amounts paid for premiums
125 for long-term care insurance as defined in Section 31A-1-301 to the extent the amounts paid for
126 long-term care insurance were not deducted under Section 213, Internal Revenue Code, in
127 determining federal taxable income; and

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

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

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

133 (3) (a) For purposes of Subsection (2)(d)[;] and this Subsection (3):

134 (i) "governmental entity" means:

135 (A) the United States;

136 (B) a state;

137 (C) a political subdivision of a state; or

138 (D) the District of Columbia;

139 (ii) "individual's surviving spouse" is as defined by the commission by rule; and

140 (iii) "retirement income" means amounts paid to an individual or an individual's surviving
141 spouse:

142 (A) from an annuity contract purchased by an employer under a plan that meets the
143 requirements of Section 404(a)(2), Internal Revenue Code;

144 (B) from a pension plan, an annuity plan, or both:

145 (I) purchased by an employee; and

146 (II) paid from an individual retirement account that meets the requirements of Section 408,
147 Internal Revenue Code;

148 (C) from a pension plan, an annuity plan, or both, established and maintained by a
149 governmental entity for employees of the governmental entity; or

150 (D) under a combination of the contracts or plans described in Subsections (3)(a)(ii)(A)
151 through (C).

152 (b) Subject to Subsection (3)(c), for purposes of Subsection (2)(d), the amount of
153 retirement income subtracted for [taxpayers] an individual who is under 65 [shall be] years old on
154 the last day of the individual's taxable year or for the individual's surviving spouse who is under
155 65 years old on the last day of the individual's surviving spouse's taxable year is equal to the lesser
156 of:

157 (i) the amount of retirement income included in federal taxable income[;] on the
158 individual's or the individual's surviving spouse's federal individual income tax return for the
159 taxable year; or

160 (ii) \$4,800[; except that].

161 (c) The amount of retirement income subtracted under Subsection (2)(d) shall be reduced
162 as follows:

163 (i) for [married taxpayers filing joint returns] the following filing statuses, for each \$1 of
164 adjusted gross income earned [over \$32,000] that exceeds \$50,000, the amount [of the retirement
165 income exemption] that may be subtracted under Subsection (3)(b) shall be reduced by 50 cents[;]:

166 (A) married individuals filing a single return jointly;

167 (B) a head of household as defined in Section 2(b), Internal Revenue Code; or

168 (C) a surviving spouse as defined in Section 2(a), Internal Revenue Code;

169 (ii) for married [taxpayers] individuals filing separate returns, for each \$1 of adjusted gross
170 income earned [over \$16,000] that exceeds \$25,000, the amount [of the retirement income
171 exemption] that may be subtracted under Subsection (3)(b) shall be reduced by 50 cents; and

172 (iii) for [individual taxpayers] single individuals, for each \$1 of adjusted gross income
173 earned [over] that exceeds \$25,000, the amount [of the retirement income exemption] that may be
174 subtracted under Subsection (3)(b) shall be reduced by 50 cents.

175 ~~[(b) For purposes of Subsection (2)(e), the]~~ (d) The amount of the personal retirement
176 exemption subtracted under Subsection (2)(e) shall be [further] reduced [according to the
177 following schedule] as follows:

178 (i) for [married taxpayers filing joint returns] the following filing statuses, for each \$1 of
179 adjusted gross income earned [over \$32,000] that exceeds \$50,000, the amount of the personal
180 retirement exemption that may be subtracted under Subsection (2)(e) shall be reduced by 50
181 cents[;]:

182 (A) married individuals filing a single return jointly;

183 (B) a head of household as defined in Section 2(b), Internal Revenue Code; or

184 (C) a surviving spouse as defined in Section 2(a), Internal Revenue Code;

185 (ii) for married [~~taxpayers~~] individuals filing separate returns, for each \$1 of adjusted
186 gross income earned [~~over \$16,000~~] that exceeds \$25,000, the amount of the personal retirement
187 exemption that may be subtracted under Subsection (2)(e) shall be reduced by 50 cents; and

188 (iii) for [~~individual taxpayers~~] single individuals, for each \$1 of adjusted gross income
189 earned [~~over~~] that exceeds \$25,000, the amount of the personal retirement exemption that may be
190 subtracted under Subsection (2)(e) shall be reduced by 50 cents.

191 [~~(c)~~] (e) For purposes of Subsections (3)[~~(a)~~] (c) and [~~(b)~~] (d), adjusted gross income [~~shall~~
192 ~~be~~] is calculated by adding to federal adjusted gross income any interest income not otherwise
193 included in federal adjusted gross income.

194 [~~(d)~~] (f) For purposes of determining ownership of items of retirement income common
195 law doctrine will be applied in all cases even though some items may have originated from service
196 or investments in a community property state.

197 (g) Amounts received by the spouse of a living retiree because of the retiree's having been
198 employed in a community property state are not deductible as retirement income of [~~such~~] the
199 spouse.

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

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

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

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

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

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

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

211 (i) may not:

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

213 (B) provide a subtraction under this section greater than or different from the subtraction

214 described in Subsection (2)(l); or
215 (C) affect the power of the state to establish rates of taxation; and
216 (ii) shall:
217 (A) provide for the implementation of the subtraction described in Subsection (2)(l);
218 (B) be in writing;
219 (C) be signed by:
220 (I) the governor; and
221 (II) the chair of the Business Committee of the Ute tribe;
222 (D) be conditioned on obtaining any approval required by federal law; and
223 (E) state the effective date of the agreement.
224 (c) (i) The governor shall report to the commission by no later than February 1 of each year
225 regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.
226 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
227 subtraction permitted under Subsection (2)(l) is not allowed for taxable years beginning on or after
228 the January 1 following the termination of the agreement.
229 (d) For purposes of Subsection (2)(l) and in accordance with Title 63, Chapter 46a, Utah
230 Administrative Rulemaking Act, the commission may make rules:
231 (i) for determining whether income is derived from a source within the Uintah and Ouray
232 Reservation; and
233 (ii) that are substantially similar to how federal adjusted gross income derived from Utah
234 sources is determined under Section 59-10-117.
235 (5) (a) For purposes of this Subsection (5), "Form 8814" means:
236 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's
237 Interest and Dividends; or
238 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by the
239 commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to 2000
240 Form 8814 if for purposes of federal individual income taxes the information contained on 2000
241 Form 8814 is reported on a form other than Form 8814; and
242 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter 46a,
243 Utah Administrative Rulemaking Act, the commission may make rules designating a form as being
244 substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the

245 information contained on 2000 Form 8814 is reported on a form other than Form 8814.

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

248 (i) the lesser of:

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

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

251 (I) the child's taxable interest;

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

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

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

255 (6) Notwithstanding Subsection (1)(g), interest from bonds, notes, and other evidences of
256 indebtedness issued by an entity described in Subsections (1)(g)(i) through (iv) may not be added
257 to federal taxable income of a resident or nonresident individual if, as annually determined by the
258 commission:

259 (a) for an entity described in Subsection (1)(g)(i) or (ii), the entity and all of the political
260 subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on
261 any part of the bonds, notes, and other evidences of indebtedness of this state; or

262 (b) for an entity described in Subsection (1)(g)(iii) or (iv), the following do not impose a
263 tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this
264 state:

265 (i) the entity; or

266 (ii) (A) the state in which the entity is located; or

267 (B) the District of Columbia, if the entity is located within the District of Columbia.

268 **Section 2. Effective date.**

269 This act takes effect for taxable years beginning on or after January 1, 2003.

Legislative Review Note
as of 11-21-01 8:49 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.