

1 **INDIVIDUAL INCOME TAX - NONRESIDENT**

2 **INCOME AMENDMENTS**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Curtis S. Bramble**

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Individual Income Tax Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ provides **§ AND MODIFIES §** definitions;
- 13 ▶ provides that compensation a nonresident servicemember receives for military
14 service is subtracted from income for purposes of calculating the nonresident
15 servicemember's state individual income tax;
- 16 ▶ grants rulemaking authority to the State Tax Commission; and
- 17 ▶ makes technical changes.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill has retrospective operation for taxable years beginning on or after January 1,
22 2004.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **59-10-116**, as last amended by Chapter 323, Laws of Utah 2001

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



28 Section 1. Section **59-10-116** is amended to read:

29 **59-10-116. Tax on nonresident** § ~~[individual's state taxable income]~~ INDIVIDUAL § --

29a **Calculation --**

30 **Exemption.**

31 (1) For purposes of this section:

32 (a) "military service" is as defined in Pub. L. No. 108-189, Sec. 101;

33 (b) "servicemember" is as defined in Pub. L. No. 108-189, Sec. 101;

34 ~~[(a)]~~ (c) "state income tax percentage" means a percentage equal to a nonresident
35 individual's federal adjusted gross income for the taxable year received from Utah sources, as
36 determined under Section 59-10-117, divided by the difference between:

37 (i) the nonresident individual's total federal adjusted gross income for that taxable year;

38 and

39 (ii) if the nonresident individual described in Subsection (1)(c)(i) is a servicemember,

40 the compensation the servicemember receives for military service if the servicemember is § [:

41 ~~— (A) a nonresident; and~~

42 ~~— (B)]~~ § serving in compliance with military orders; and

43 ~~[(b)]~~ (d) "UNAPPORTIONED state § ~~[taxable income]~~ TAX § " means the product of the:

44 (i) difference between:

45 (A) a nonresident individual's~~[-(i)]~~ federal taxable income, as defined in Section
46 59-10-111, with the modifications, subtractions, and adjustments provided for in Section
47 59-10-114; and

48 (B) if the nonresident individual described in Subsection (1)(d)(i)(A) is a
49 servicemember, compensation the servicemember receives for military service if the
50 servicemember is § [:

51 ~~— (F) a nonresident; and~~

52 ~~— (H)]~~ § serving in compliance with military orders; and

53 (ii) tax § RATE § imposed under Section 59-10-104.

54 (2) § ~~[(a)]~~ § Except as provided in Subsection (3), a tax is imposed § ~~[as provided in this~~
55 ~~section on the state taxable income calculated under this section of]~~ ON § a nonresident individual § [:

56 ~~— (b) The tax under this section shall be calculated by multiplying]~~ IN AN AMOUNT EQUAL TO

56a THE PRODUCT OF § the nonresident

57 individual's § :

57a (a) UNAPPORTIONED § state § ~~[taxable income by the nonresident individual's]~~ TAX; AND

57b (b) § state income tax percentage.

58 (3) This section does not apply to a nonresident individual exempt from taxation under

59 Section 59-10-104.1.

60 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
61 purposes of Subsection (1)(d)(i)(B), the commission may by rule define what constitutes
62 compensation.

63 Section 2. **Retrospective operation.**

64 This bill has retrospective operation for taxable years beginning on or after January 1,
65 2004.

Legislative Review Note
as of 1-23-04 3:41 PM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0139

Individual Income Tax-Nonresident Income Amendments

02-Feb-04

4:41 PM

State Impact

Passage of this bill would codify a federal tax advisory notice.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst