

1 **INCOME TAX AMENDMENTS**

2 2006 FOURTH SPECIAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: Wayne A. Harper

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Individual Income Tax Act relating to tax brackets, additions, and
10 subtractions, and enacts the Single Rate Individual Income Tax Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies tax brackets for taxable years beginning on or after January 1, 2006;
- 14 ▶ for taxable years beginning on or after January 1, 2009, requires individual income tax
15 brackets to be adjusted for changes in the consumer price index;
- 16 ▶ modifies additions to and subtractions from federal taxable income for purposes of
17 calculating individual income taxes;
- 18 ▶ enacts the Single Rate Individual Income Tax Act:
 - 19 • for taxable years beginning on or after January 1, 2007; and
 - 20 • that allows a resident or nonresident individual to determine each time the resident or
21 nonresident individual files a state individual income tax return or amended return,
22 whether to calculate and pay a single rate individual income tax on the basis of
23 adjusted gross income or pay a multi-rate individual income tax on the basis of
24 federal taxable income;
- 25 ▶ enacts, modifies, and repeals definitions;
- 26 ▶ repeals the authority for the State Tax Commission to prescribe tax tables and for an
27 individual to elect to pay an individual income tax on the basis of those tax tables;
- 28 ▶ repeals an intent statement relating to the Individual Income Tax Act;

- 29 ▶ grants rulemaking authority to the State Tax Commission; and
- 30 ▶ makes technical changes.

31 **Monies Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 This bill provides an effective date and provides for retrospective operation.

35 **Utah Code Sections Affected:**

36 AMENDS:

- 37 **59-10-103**, as last amended by Chapters 223 and 224, Laws of Utah 2006
- 38 **59-10-104**, as last amended by Chapters 323 and 324, Laws of Utah 2001
- 39 **59-10-104.1**, as enacted by Chapter 323, Laws of Utah 2001
- 40 **59-10-114**, as last amended by Chapters 223 and 224, Laws of Utah 2006
- 41 **59-10-115**, as last amended by Chapter 223, Laws of Utah 2006
- 42 **59-10-116**, as last amended by Chapter 79, Laws of Utah 2004
- 43 **59-10-117**, as last amended by Chapters 311 and 345, Laws of Utah 1995
- 44 **59-10-202**, as last amended by Chapter 223, Laws of Utah 2006
- 45 **59-10-303**, as renumbered and amended by Chapter 2, Laws of Utah 1987
- 46 **59-10-1002**, as enacted by Chapter 223, Laws of Utah 2006
- 47 **59-10-1005**, as renumbered and amended by Chapter 223, Laws of Utah 2006

48 ENACTS:

- 49 **59-10-1201**, Utah Code Annotated 1953
- 50 **59-10-1202**, Utah Code Annotated 1953
- 51 **59-10-1203**, Utah Code Annotated 1953
- 52 **59-10-1204**, Utah Code Annotated 1953
- 53 **59-10-1205**, Utah Code Annotated 1953
- 54 **59-10-1206**, Utah Code Annotated 1953

55 **59-10-1207**, Utah Code Annotated 1953

56 REPEALS:

57 **59-10-102**, as renumbered and amended by Chapter 2, Laws of Utah 1987

58 **59-10-105**, as last amended by Chapter 323, Laws of Utah 2001

59 **59-10-111**, as last amended by Chapter 96, Laws of Utah 1987

60 **59-10-112**, as last amended by Chapter 223, Laws of Utah 2006

61

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

63 Section 1. Section **59-10-103** is amended to read:

64 **59-10-103. Definitions.**

65 (1) As used in this chapter:

66 (a) "Adjusted gross income":

67 (i) for a resident or nonresident individual, is as defined in Section 62, Internal Revenue

68 Code; or

69 (ii) for a resident or nonresident estate or trust, is as calculated in Section 67(e), Internal

70 Revenue Code.

71 ~~(a)~~ (b) "Adoption expenses" means:

72 (i) any actual medical and hospital expenses of the mother of the adopted child which are
73 incident to the child's birth;

74 (ii) any welfare agency fees or costs;

75 (iii) any child placement service fees or costs;

76 (iv) any legal fees or costs; or

77 (v) any other fees or costs relating to an adoption.

78 ~~(b)~~ (c) "Adult with a disability" means an individual who:

79 (i) is 18 years of age or older;

80 (ii) is eligible for services under Title 62A, Chapter 5, Services for People with Disabilities;

81 and

82 (iii) is not enrolled in:

83 (A) an education program for students with disabilities that is authorized under Section
84 53A-15-301; or

85 (B) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind.

86 [~~(e)~~] (d) (i) For purposes of Subsection 59-10-114(2)(1), "capital gain transaction" means a
87 transaction that results in a:

88 (A) short-term capital gain; or

89 (B) long-term capital gain.

90 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
91 commission may by rule define the term "transaction."

92 [~~(d)~~] (e) "Commercial domicile" means the principal place from which the trade or business
93 of a Utah small business corporation is directed or managed.

94 [~~(e)~~] (f) "Corporation" includes:

95 (i) associations;

96 (ii) joint stock companies; and

97 (iii) insurance companies.

98 [~~(f)~~] (g) "Dependent child with a disability" means an individual 21 years of age or younger
99 who:

100 (i) (A) is diagnosed by a school district representative under rules adopted by the State
101 Board of Education as having a disability classified as:

102 (I) autism;

103 (II) deafness;

104 (III) preschool developmental delay;

105 (IV) dual sensory impairment;

106 (V) hearing impairment;

- 107 (VI) intellectual disability;
- 108 (VII) multidisability;
- 109 (VIII) orthopedic impairment;
- 110 (IX) other health impairment;
- 111 (X) traumatic brain injury; or
- 112 (XI) visual impairment;
- 113 (B) is not receiving residential services from:
 - 114 (I) the Division of Services for People with Disabilities created under Section 62A-5-102; or
 - 115 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind; and
- 116 (C) is enrolled in:
 - 117 (I) an education program for students with disabilities that is authorized under Section
 - 118 53A-15-301; or
 - 119 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind; or
- 120 (ii) is identified under guidelines of the Department of Health as qualified for:
 - 121 (A) Early Intervention; or
 - 122 (B) Infant Development Services.
- 123 [~~g~~] (h) "Distributable net income" is as defined in Section 643, Internal Revenue Code.
- 124 [~~h~~] (i) "Employee" is as defined in Section 59-10-401.
- 125 [~~i~~] (j) "Employer" is as defined in Section 59-10-401.
- 126 (k) "Federal taxable income":
 - 127 (i) for a resident or nonresident individual, means taxable income as defined by Section 63,
 - 128 Internal Revenue Code; or
 - 129 (ii) for a resident or nonresident estate or trust, is as calculated in Section 641(a) and (b),
 - 130 Internal Revenue Code.
- 131 [~~j~~] (l) "Fiduciary" means:
 - 132 (i) a guardian;

- 133 (ii) a trustee;
- 134 (iii) an executor;
- 135 (iv) an administrator;
- 136 (v) a receiver;
- 137 (vi) a conservator; or
- 138 (vii) any person acting in any fiduciary capacity for any individual.

139 ~~[(k)]~~ (m) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the
140 homesteaded land that was held to have been diminished from the Uintah and Ouray Reservation in
141 Hagen v. Utah, 510 U.S. 399 (1994).

142 ~~[(h)]~~ (n) "Individual" means a natural person and includes aliens and minors.

143 ~~[(m)]~~ (o) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all
144 or part of the trust without the consent of a person who has a substantial beneficial interest in the trust
145 and the interest would be adversely affected by the exercise of the settlor's power to revoke or
146 terminate all or part of the trust.

147 ~~[(n)]~~ (p) For purposes of Subsection 59-10-114(2)(l), "long-term capital gain" is as defined
148 in Section 1222, Internal Revenue Code.

149 ~~[(o)]~~ (q) "Nonresident individual" means an individual who is not a resident of this state.

150 ~~[(p)]~~ (r) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a
151 resident estate or trust.

152 ~~[(q)]~~ (s) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other
153 unincorporated organization:

154 (A) through or by means of which any business, financial operation, or venture is carried on;
155 and

156 (B) which is not, within the meaning of this chapter:

157 (I) a trust;

158 (II) an estate; or

- 159 (III) a corporation.
- 160 (ii) "Partnership" does not include any organization not included under the definition of
- 161 "partnership" in Section 761, Internal Revenue Code.
- 162 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or organization
- 163 described in Subsection (1)~~(τ)~~ (s)(i).
- 164 ~~(τ)~~ (t) "Qualifying military service member" means a member of:
- 165 (i) The Utah Army National Guard;
- 166 (ii) The Utah Air National Guard; or
- 167 (iii) the following if the member is assigned to a unit that is located in the state:
- 168 (A) The Army Reserve;
- 169 (B) The Naval Reserve;
- 170 (C) The Air Force Reserve;
- 171 (D) The Marine Corps Reserve; or
- 172 (E) The Coast Guard Reserve.
- 173 ~~(σ)~~ (u) "Qualifying stock" means stock that is:
- 174 (i) (A) common; or
- 175 (B) preferred;
- 176 (ii) as defined by the commission by rule, originally issued to:
- 177 (A) a resident or nonresident individual; or
- 178 (B) a partnership if the resident or nonresident individual making a subtraction from federal
- 179 taxable income in accordance with Subsection 59-10-114(2)(l):
- 180 (I) was a partner when the stock was issued; and
- 181 (II) remains a partner until the last day of the taxable year for which the resident or
- 182 nonresident individual makes the subtraction from federal taxable income in accordance with
- 183 Subsection 59-10-114(2)(l); and
- 184 (iii) issued:

- 185 (A) by a Utah small business corporation;
- 186 (B) on or after January 1, 2003; and
- 187 (C) for:
- 188 (I) money; or
- 189 (II) other property, except for stock or securities.
- 190 ~~[(t)]~~ (v) (i) "Resident individual" means:
- 191 (A) an individual who is domiciled in this state for any period of time during the taxable year,
- 192 but only for the duration of the period during which the individual is domiciled in this state; or
- 193 (B) an individual who is not domiciled in this state but:
- 194 (I) maintains a permanent place of abode in this state; and
- 195 (II) spends in the aggregate 183 or more days of the taxable year in this state.
- 196 (ii) For purposes of Subsection (1)~~[(t)]~~ (v)(i)(B), a fraction of a calendar day shall be
- 197 counted as a whole day.
- 198 ~~[(t)]~~ (w) "Resident estate" or "resident trust" is as defined in Section 75-7-103.
- 199 ~~[(v)]~~ (x) For purposes of Subsection 59-10-114(2)(1), "short-term capital gain" is as defined
- 200 in Section 1222, Internal Revenue Code.
- 201 ~~[(w)]~~ (y) "Taxable income" ~~[and] or~~ "state taxable income" ~~[are defined as provided in~~
- 202 ~~Sections 59-10-111, 59-10-112, 59-10-201.1, and 59-10-204.];~~
- 203 (i) subject to Subsection 59-10-302(2), for a resident individual other than a resident
- 204 individual described in Subsection (1)(y)(iii), means the resident individual's federal taxable income
- 205 after making the:
- 206 (A) additions and subtractions required by Section 59-10-114; and
- 207 (B) adjustments required by Section 59-10-115;
- 208 (ii) for a nonresident individual other than a nonresident individual described in Subsection
- 209 (1)(y)(iii), is as defined in Section 59-10-116;
- 210 (iii) for a resident or nonresident individual that collects and pays a tax described in Part 12,

211 Single Rate Individual Income Tax Act, is as defined in Section 59-10-1202:

212 (iv) for a resident estate or trust, is as calculated under Section 59-10-201.1; and

213 (v) for a nonresident estate or trust, is as calculated under Section 59-10-204.

214 [~~(x)~~] (z) "Taxpayer" means any individual, estate, or trust or beneficiary of an estate or trust,
215 whose income is subject in whole or part to the tax imposed by this chapter.

216 [~~(y)~~] (aa) "Uintah and Ouray Reservation" means the lands recognized as being included
217 within the Uintah and Ouray Reservation in:

218 (i) Hagen v. Utah, 510 U.S. 399 (1994); and

219 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

220 [~~(z)~~] (bb) (i) "Utah small business corporation" means a corporation that:

221 (A) is a small business corporation as defined in Section 1244(c)(3), Internal Revenue Code;

222 (B) except as provided in Subsection (1)[~~(z)~~](bb)(ii), meets the requirements of Section
223 1244(c)(1)(C), Internal Revenue Code; and

224 (C) has its commercial domicile in this state.

225 (ii) Notwithstanding Subsection (1)[~~(z)~~](bb)(i)(B), the time period described in Section
226 1244(c)(1)(C) and Section 1244(c)(2), Internal Revenue Code, for determining the source of a
227 corporation's aggregate gross receipts shall end on the last day of the taxable year for which the
228 resident or nonresident individual makes a subtraction from federal taxable income in accordance with
229 Subsection 59-10-114(2)(l).

230 [~~(aa)~~] (cc) "Ute tribal member" means a person who is enrolled as a member of the Ute
231 Indian Tribe of the Uintah and Ouray Reservation.

232 [~~(bb)~~] (dd) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

233 [~~(cc)~~] (ee) "Wages" is as defined in Section 59-10-401.

234 (2) (a) Any term used in this chapter has the same meaning as when used in comparable
235 context in the laws of the United States relating to federal income taxes unless a different meaning is
236 clearly required.

237 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall
238 mean the Internal Revenue Code or other provisions of the laws of the United States relating to
239 federal income taxes that are in effect for the taxable year.

240 (c) Any reference to a specific section of the Internal Revenue Code or other provision of
241 the laws of the United States relating to federal income taxes shall include any corresponding or
242 comparable provisions of the Internal Revenue Code as hereafter amended, redesignated, or
243 reenacted.

244 Section 2. Section **59-10-104** is amended to read:

245 **59-10-104. Tax basis -- Rates -- Adjustment for changes in the consumer price**
246 **index -- Exemption.**

247 (1) Except as provided in Subsection [(4)] (5) or Part 12, Single Rate Individual Income Tax
248 Act, for taxable years beginning on or after January 1, [2001] 2006, a tax is imposed on the state
249 taxable income[, as defined in Section 59-10-112,] of every resident individual as provided in this
250 section.

251 (2) For an individual, other than a husband and wife or head of household required to use the
252 tax table under Subsection (3), the tax under this section is imposed in accordance with the following
253 [table] income brackets:

254	If the state taxable income is:	The tax is:
255	Less than or equal to [\$863] <u>\$1,000</u>	2.3% of the state taxable income
256	Greater than [\$863] <u>\$1,000</u> but less than	[\$20] <u>\$23</u> , plus 3.3% of state taxable
257	or equal to [\$1,726] <u>\$2,000</u>	income greater than [\$863] <u>\$1,000</u>
258	Greater than [\$1,726] <u>\$2,000</u> but less than	[\$48] <u>\$56</u> , plus 4.2% of state taxable
259	or equal to [\$2,588] <u>\$3,000</u>	income greater than [\$1,726] <u>\$2,000</u>
260	Greater than [\$2,588] <u>\$3,000</u> but less than	[\$85] <u>\$98</u> , plus 5.2% of state taxable
261	or equal to [\$3,450] <u>\$4,000</u>	income greater than [\$2,588] <u>\$3,000</u>
262	Greater than [\$3,450] <u>\$4,000</u> but less than	[\$129] <u>\$150</u> , plus 6% of state taxable

263 or equal to [~~\$4,313~~] \$5,500 income greater than [~~\$3,450~~] \$4,000
 264 Greater than [~~\$4,313~~] \$5,500 [~~\$181~~] \$240, plus [~~7%~~] 6.98% of state taxable
 265 income greater than [~~\$4,313~~] \$5,500

266 (3) For a husband and wife filing a single return jointly, or a head of household as defined in
 267 Section 2(b), Internal Revenue Code, filing a single return, the tax under this section is imposed in
 268 accordance with the following [~~table~~] income brackets:

269 If the state taxable income is:	The tax is:
270 Less than or equal to [\$1,726] <u>\$2,000</u>	2.3% of the state taxable income
271 Greater than [\$1,726] <u>\$2,000</u> but less than	[\$40] <u>\$46</u> , plus 3.3% of state taxable
272 or equal to [\$3,450] <u>\$4,000</u>	income greater than [\$1,726] <u>\$2,000</u>
273 Greater than [\$3,450] <u>\$4,000</u> but less than	[\$97] <u>\$112</u> , plus 4.2% of state taxable
274 or equal to [\$5,176] <u>\$6,000</u>	income greater than [\$3,450] <u>\$4,000</u>
275 Greater than [\$5,176] <u>\$6,000</u> but less than	[\$169] <u>\$196</u> , plus 5.2% of state taxable
276 or equal to [\$6,900] <u>\$8,000</u>	income greater than [\$5,176] <u>\$6,000</u>
277 Greater than [\$6,900] <u>\$8,000</u> but less than	[\$259] <u>\$300</u> , plus 6% of state taxable
278 or equal to [\$8,626] <u>\$11,000</u>	income greater than [\$6,900] <u>\$8,000</u>
279 Greater than [\$8,626] <u>\$11,000</u>	[\$362] <u>\$480</u> , plus [7%] <u>6.98%</u> of state taxable
280	income greater than [\$8,626] <u>\$11,000</u>

281 (4) (a) For taxable years beginning on or after January 1, 2009, the commission shall:
 282 (i) make the following adjustments to the income brackets under Subsection (2):
 283 (A) increase or decrease the income brackets under Subsection (2) by a percentage equal to
 284 the percentage difference between the consumer price index for the preceding calendar year and the
 285 consumer price index for the calendar year 2007; and
 286 (B) after making an increase or decrease under Subsection (4)(a)(i)(A), round the income
 287 brackets under Subsection (2) to the nearest whole dollar;
 288 (ii) after making the adjustments described in Subsection (4)(a)(i) to the income brackets

289 under Subsection (2), adjust the income brackets under Subsection (3) so that for each income
290 bracket under Subsection (2) there is a corresponding income bracket under Subsection (3) that is
291 equal to the product of:

292 (A) each income bracket under Subsection (2); and

293 (B) two; and

294 (iii) to the extent necessary to reflect an adjustment under Subsection (4)(a)(i) or (ii):

295 (A) increase or decrease the amount of tax under Subsection (2) or (3) prior to adding in the
296 portion of the tax calculated as a percentage of state taxable income; and

297 (B) after making an increase or decrease under Subsection (4)(a)(iii)(A), round the amount
298 of tax under Subsection (2) or (3) to the nearest whole dollar.

299 (b) The commission may not increase or decrease the tax rate percentages provided in
300 Subsection (2) or (3).

301 (c) For purposes of Subsection (4)(a)(i), the commission shall calculate the consumer price
302 index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

303 ~~[(4)]~~ (5) This section does not apply to a resident individual exempt from taxation under
304 Section 59-10-104.1.

305 Section 3. Section **59-10-104.1** is amended to read:

306 **59-10-104.1. Exemption from taxation.**

307 (1) For purposes of this section:

308 (a) "Personal exemptions" means the total exemption amount an individual is allowed to claim
309 for the taxable year under Section 151, Internal Revenue Code, for:

310 (i) the individual;

311 (ii) the individual's spouse; and

312 (iii) the individual's dependents~~[-and]~~.

313 (b) "Standard deduction":

314 (i) except as provided in Subsection (1)(b)(ii), means the standard deduction an individual is

- 315 allowed to claim for the taxable year under Section 63, Internal Revenue Code; and
- 316 (ii) notwithstanding Subsection (1)(b)(i), does not include an additional amount allowed
- 317 under Section 63(f), Internal Revenue Code, for an individual or an individual's spouse who is:
- 318 (A) blind; or
- 319 (B) 65 years of age or older.
- 320 (2) For taxable years beginning on or after January 1, 2002, an individual is exempt from a
- 321 tax imposed by Section 59-10-104~~[, 59-10-105,]~~ or 59-10-116 or described in Section
- 322 59-10-1203 if the individual's adjusted gross income on the individual's federal individual income tax
- 323 return for the taxable year is less than or equal to the sum of the individual's:
- 324 (a) personal exemptions for that taxable year; and
- 325 (b) standard deduction for that taxable year.
- 326 Section 4. Section **59-10-114** is amended to read:
- 327 **59-10-114. Additions to and subtractions from federal taxable income of an**
- 328 **individual.**
- 329 (1) There shall be added to federal taxable income of a resident or nonresident individual:
- 330 (a) the amount of any income tax imposed by this or any predecessor Utah individual income
- 331 tax law and the amount of any income tax imposed by the laws of another state, the District of
- 332 Columbia, or a possession of the United States, to the extent deducted from [~~federal~~] adjusted gross
- 333 income~~[, as defined by Section 62, Internal Revenue Code,]~~ in determining federal taxable income;
- 334 (b) a lump sum distribution that the taxpayer does not include in adjusted gross income on
- 335 the taxpayer's federal individual income tax return for the taxable year;
- 336 (c) for taxable years beginning on or after January 1, 2002, the amount of a child's income
- 337 calculated under Subsection (5) that:
- 338 (i) a parent elects to report on the parent's federal individual income tax return for the taxable
- 339 year; and
- 340 (ii) the parent does not include in adjusted gross income on the parent's federal individual

341 income tax return for the taxable year;

342 (d) 25% of the personal exemptions, as defined and calculated in the Internal Revenue

343 Code;

344 (e) a withdrawal from a medical care savings account and any penalty imposed in the taxable

345 year if:

346 (i) the ~~[taxpayer]~~ resident or nonresident individual did not deduct or include the amounts on

347 the ~~[taxpayer's]~~ resident or nonresident individual's federal individual income tax return pursuant to

348 Section 220, Internal Revenue Code; ~~[and]~~

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

350 (iii) the withdrawal is deducted by the resident or nonresident individual under Subsection

351 (2)(h);

352 (f) the amount disbursed to an account owner under Title 53B, Chapter 8a, Higher

353 Education Savings Incentive Program, ~~[it]~~ for the taxable year [it] for which the amount is

354 disbursed[;], if that amount disbursed to the account owner:

355 (i) is not expended for higher education costs as defined in Section 53B-8a-102; and

356 (ii) is deducted by the account owner under Subsection (2)(i);

357 (g) except as provided in Subsection (6), for taxable years beginning on or after January 1,

358 2003, for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003,

359 the interest from bonds, notes, and other evidences of indebtedness issued by one or more of the

360 following entities:

361 (i) a state other than this state;

362 (ii) the District of Columbia;

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

364 (iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i) through (iii);

365 (h) subject to Subsection (2)(n), any distribution received by a resident beneficiary of a

366 resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted

367 from state taxable income of the trust pursuant to Subsection 59-10-202(2)(c);

368 (i) any distribution received by a resident beneficiary of a nonresident trust of undistributed
369 distributable net income realized by the trust on or after January 1, 2004, if that undistributed
370 distributable net income was taxed at the trust level for federal tax purposes, but was not taxed at the
371 trust level by any state, with undistributed distributable net income considered to be distributed from
372 the most recently accumulated undistributed distributable net income; and

373 (j) any adoption expense:

374 (i) for which a resident or nonresident individual receives reimbursement from another
375 person; and

376 (ii) to the extent to which the resident or nonresident individual deducts that adoption
377 expense;

378 (A) under Subsection (2)(c); or

379 (B) from federal taxable income on a [state or] federal individual income tax return.

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

382 (a) the interest or a dividend on obligations or securities of the United States and its
383 possessions or of any authority, commission, or instrumentality of the United States, to the extent that
384 interest or dividend is included in gross income for federal income tax purposes for the taxable year
385 but exempt from state income taxes under the laws of the United States, but the amount subtracted
386 under this Subsection (2)(a) shall be reduced by any interest on indebtedness incurred or continued to
387 purchase or carry the obligations or securities described in this Subsection (2)(a), and by any
388 expenses incurred in the production of interest or dividend income described in this Subsection (2)(a)
389 to the extent that such expenses, including amortizable bond premiums, are deductible in determining
390 federal taxable income;

391 (b) 1/2 of the net amount of any income tax paid or payable to the United States after all
392 allowable credits, as reported on the United States individual income tax return of the taxpayer for the

393 same taxable year;

394 (c) the amount of adoption expenses for one of the following taxable years as elected by the
395 resident or nonresident individual:

396 (i) regardless of whether a court issues an order granting the adoption, the taxable year in
397 which the adoption expenses are:

398 (A) paid; or

399 (B) incurred;

400 (ii) the taxable year in which a court issues an order granting the adoption; or

401 (iii) any year in which the resident or nonresident individual may claim the federal adoption
402 expenses credit under Section 23, Internal Revenue Code;

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

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

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

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

416 (i) for:

417 (A) the taxpayer;

418 (B) the taxpayer's spouse; and

419 (C) the taxpayer's dependents; and
420 (ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or 213,
421 Internal Revenue Code, in determining federal taxable income for the taxable year;
422 (h) (i) except as provided in this Subsection (2)(h), the amount of a contribution made during
423 the taxable year on behalf of the taxpayer to a medical care savings account and interest earned on a
424 contribution to a medical care savings account established pursuant to Title 31A, Chapter 32a,
425 Medical Care Savings Account Act, to the extent the contribution is accepted by the account
426 administrator as provided in the Medical Care Savings Account Act, and if the taxpayer did not
427 deduct or include amounts on the taxpayer's federal individual income tax return pursuant to Section
428 220, Internal Revenue Code; and
429 (ii) a contribution deductible under this Subsection (2)(h) may not exceed either of the
430 following:
431 (A) the maximum contribution allowed under the Medical Care Savings Account Act for the
432 tax year multiplied by two for taxpayers who file a joint return, if neither spouse is covered by health
433 care insurance as defined in Section 31A-1-301 or self-funded plan that covers the other spouse, and
434 each spouse has a medical care savings account; or
435 (B) the maximum contribution allowed under the Medical Care Savings Account Act for the
436 tax year for taxpayers:
437 (I) who do not file a joint return; or
438 (II) who file a joint return, but do not qualify under Subsection (2)(h)(ii)(A);
439 (i) the amount included in federal taxable income that was derived from money paid by an
440 account owner to the program fund under Title 53B, Chapter 8a, Higher Education Savings Incentive
441 Program, not to exceed amounts determined under Subsection 53B-8a-106(1)(d), and investment
442 income earned on account agreements entered into under Section 53B-8a-106 that is included in
443 federal taxable income, but only when the funds are used for qualified higher education costs of the
444 beneficiary;

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

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

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

453 (ii) from a source within the Uintah and Ouray Reservation;

454 (l) (i) for taxable years beginning on or after January 1, 2003, the total amount of a resident
455 or nonresident individual's short-term capital gain or long-term capital gain on a capital gain
456 transaction:

457 (A) that occurs on or after January 1, 2003;

458 (B) if 70% or more of the gross proceeds of the capital gain transaction are expended:

459 (I) to purchase qualifying stock in a Utah small business corporation; and

460 (II) within a 12-month period after the day on which the capital gain transaction occurs; and

461 (C) if, prior to the purchase of the qualifying stock described in Subsection (2)(l)(i)(B)(I), the
462 resident or nonresident individual did not have an ownership interest in the Utah small business
463 corporation that issued the qualifying stock; and

464 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
465 commission may make rules:

466 (A) defining the term "gross proceeds"; and

467 (B) for purposes of Subsection (2)(l)(i)(C), prescribing the circumstances under which a
468 resident or nonresident individual has an ownership interest in a Utah small business corporation;

469 (m) for the taxable year beginning on or after January 1, 2005, but beginning on or before
470 December 31, 2005, the first \$2,200 of income a qualifying military service member receives:

- 471 (i) for service:
- 472 (A) as a qualifying military service member; or
- 473 (B) under an order into active service in accordance with Section 39-1-5; and
- 474 (ii) to the extent that income is included in adjusted gross income on that resident or
- 475 nonresident individual's federal individual income tax return for that taxable year;
- 476 (n) an amount received by a resident or nonresident individual or distribution received by a
- 477 resident or nonresident beneficiary of a resident trust:
- 478 (i) if that amount or distribution constitutes a refund of taxes imposed by:
- 479 (A) a state; or
- 480 (B) the District of Columbia; and
- 481 (ii) to the extent that amount or distribution is included in adjusted gross income for that
- 482 taxable year on the federal individual income tax return of the resident or nonresident individual or
- 483 resident or nonresident beneficiary of a resident trust;
- 484 (o) the amount of a railroad retirement benefit:
- 485 (i) paid:
- 486 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;
- 487 (B) to a resident or nonresident individual; and
- 488 (C) for the taxable year; and
- 489 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on that
- 490 resident or nonresident individual's federal individual income tax return for that taxable year; and
- 491 (p) an amount:
- 492 (i) received by an enrolled member of an American Indian tribe; and
- 493 (ii) to the extent that the state is not authorized or permitted to impose a tax under this part
- 494 on that amount in accordance with:
- 495 (A) federal law;
- 496 (B) a treaty; or

497 (C) a final decision issued by a court of competent jurisdiction.

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

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

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

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

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

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

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

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

517 (c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be calculated by
518 adding to [federal] adjusted gross income any interest income not otherwise included in [federal]
519 adjusted gross income.

520 (d) For purposes of determining ownership of items of retirement income common law
521 doctrine will be applied in all cases even though some items may have originated from service or
522 investments in a community property state. Amounts received by the spouse of a living retiree

523 because of the retiree's having been employed in a community property state are not deductible as
524 retirement income of such spouse.

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

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

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

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

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

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

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

536 (i) may not:

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

538 (B) provide a subtraction under this section greater than or different from the subtraction
539 described in Subsection (2)(k); or

540 (C) affect the power of the state to establish rates of taxation; and

541 (ii) shall:

542 (A) provide for the implementation of the subtraction described in Subsection (2)(k);

543 (B) be in writing;

544 (C) be signed by:

545 (I) the governor; and

546 (II) the chair of the Business Committee of the Ute tribe;

547 (D) be conditioned on obtaining any approval required by federal law; and

548 (E) state the effective date of the agreement.

549 (c) (i) The governor shall report to the commission by no later than February 1 of each year
550 regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.

551 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
552 subtraction permitted under Subsection (2)(k) is not allowed for taxable years beginning on or after
553 the January 1 following the termination of the agreement.

554 (d) For purposes of Subsection (2)(k) and in accordance with Title 63, Chapter 46a, Utah
555 Administrative Rulemaking Act, the commission may make rules:

556 (i) for determining whether income is derived from a source within the Uintah and Ouray
557 Reservation; and

558 (ii) that are substantially similar to how ~~[federal]~~ adjusted gross income derived from Utah
559 sources is determined under Section 59-10-117.

560 (5) (a) For purposes of this Subsection (5), "Form 8814" means:

561 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest
562 and Dividends; or

563 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by the
564 commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to 2000 Form
565 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814
566 is reported on a form other than Form 8814; and

567 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter 46a,
568 Utah Administrative Rulemaking Act, the commission may make rules designating a form as being
569 substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the
570 information contained on 2000 Form 8814 is reported on a form other than Form 8814.

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

573 (i) the lesser of:

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

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

576 (I) the child's taxable interest;

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

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

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

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

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

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

589 (i) the entity; or

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

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

592 Section 5. Section **59-10-115** is amended to read:

593 **59-10-115. Adjustments to federal taxable income.**

594 (1) The commission shall allow an adjustment to [state] federal taxable income of a taxpayer
595 if the taxpayer would otherwise:

596 (a) receive a double tax benefit under this part; or

597 (b) suffer a double tax detriment under this part.

598 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
599 commission may make rules to allow for the adjustment to [state] federal taxable income required by
600 Subsection (1).

601 Section 6. Section **59-10-116** is amended to read:

602 **59-10-116. Definitions -- Tax on nonresident individual -- Calculation -- Exemption.**

603 (1) For purposes of this section:

604 (a) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101[;].

605 (b) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101[;].

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

609 (i) the nonresident individual's total [~~federal~~] adjusted gross income for that taxable year; and

610 (ii) if the nonresident individual described in Subsection (1)(c)(i) is a servicemember, the
611 compensation the servicemember receives for military service if the servicemember is serving in
612 compliance with military orders[; ~~and~~].

613 (d) "State taxable income" means a nonresident individual's federal taxable income after
614 making the:

615 (i) additions and subtractions required by Section 59-10-114; and

616 (ii) adjustments required by Section 59-10-115.

617 [~~(d)~~] (e) "Unapportioned state tax" means the product of the:

618 (i) difference between:

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

622 (B) if the nonresident individual described in Subsection (1)[~~(d)~~](e)(i)(A) is a servicemember,
623 compensation the servicemember receives for military service if the servicemember is serving in
624 compliance with military orders; and

625 (ii) tax rate imposed under Section 59-10-104.

626 (2) Except as provided in Subsection (3) or Part 12, Single Rate Individual Income Tax Act,

627 a tax is imposed on a nonresident individual in an amount equal to the product of the nonresident
628 individual's:

629 (a) unapportioned state tax; and

630 (b) state income tax percentage.

631 (3) This section does not apply to a nonresident individual exempt from taxation under
632 Section 59-10-104.1.

633 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
634 purposes of Subsection (1), the commission may by rule define what constitutes compensation.

635 Section 7. Section **59-10-117** is amended to read:

636 **59-10-117. Adjusted gross income derived from Utah sources.**

637 (1) For [~~the purpose~~] purposes of Section 59-10-116, [~~federal~~] adjusted gross income
638 derived from Utah sources [~~shall include~~] includes those items includable in [~~federal~~] adjusted gross
639 income["~~(as defined by Section 62 of the Internal Revenue Code)~~] attributable to or resulting from:

640 (a) the ownership in this state of any interest in real or tangible personal property, [~~(~~]including
641 real property or property rights from which "gross income from mining," as defined by Section 613(c)
642 [~~of the~~], Internal Revenue Code, is derived[~~);~~]; or

643 (b) the carrying on of a business, trade, profession, or occupation in this state.

644 (2) For the purposes of Subsection (1):

645 (a) income from intangible personal property, including annuities, dividends, interest, and
646 gains from the disposition of intangible personal property shall constitute income derived from Utah
647 sources only to the extent that such income is from property employed in a trade, business,
648 profession, or occupation carried on in this state[~~;~~];

649 (b) deductions with respect to capital losses, net long-term capital gains, and net operating
650 losses shall be based solely on income, gain, loss, and deduction connected with Utah sources, under
651 rules prescribed by the commission in accordance with Title 63, Chapter 46a, Utah Administrative
652 Rulemaking Act, but otherwise shall be determined in the same manner as the corresponding federal

653 deductions[-];

654 (c) salaries, wages, commissions, and compensation for personal services rendered outside
655 this state shall not be considered to be derived from Utah sources[-];

656 (d) a nonresident shareholder's distributive share of ordinary income, gain, loss, and
657 deduction derived from or connected with Utah sources shall be determined under Section
658 59-10-118[-];

659 (e) a nonresident, other than a dealer holding property primarily for sale to customers in the
660 ordinary course of [~~his~~] the dealer's trade or business, [~~shall~~] may not be considered to carry on a
661 trade, business, profession, or occupation in this state solely by reason of the purchase or sale of
662 property for [~~his~~] the nonresident's own account[-];

663 (f) if a trade, business, profession, or occupation is carried on partly within and partly without
664 this state, items of income, gain, loss, and deductions derived from or connected with Utah sources
665 shall be determined in accordance with the provisions of Section 59-10-118[-];

666 (g) a nonresident partner's distributive share of partnership income, gain, loss, and deduction
667 derived from or connected with Utah sources shall be determined under Section 59-10-303[-];

668 (h) the share of a nonresident estate or trust and nonresident beneficiaries of any estate or
669 trust in income, gain, loss, and deduction derived from or connected with Utah sources shall be
670 determined under Section 59-10-207[-]; and

671 (i) any dividend, interest, or distributive share of income, gain, or loss from a real estate
672 investment trust, as defined in Section 59-7-116.5, distributed or allocated to a nonresident investor
673 in the trust, including any shareholder, beneficiary, or owner of a beneficial interest in the trust, shall
674 be income from intangible personal property under Subsection (2)(a), and shall constitute income
675 derived from Utah sources only to the extent the nonresident investor is employing its beneficial
676 interest in the trust in a trade, business, profession, or occupation carried on by the investor in this
677 state.

678 Section 8. Section **59-10-202** is amended to read:

679 **59-10-202. Additions to and subtractions from federal taxable income of a resident**
680 **or nonresident estate or trust.**

681 (1) There shall be added to federal taxable income of a resident or nonresident estate or
682 trust:

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

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

690 (c) except as provided in Subsection (3), for taxable years beginning on or after January 1,
691 2003, for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003,
692 the interest from bonds, notes, and other evidences of indebtedness issued by one or more of the
693 following entities:

694 (i) a state other than this state;

695 (ii) the District of Columbia;

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

697 (iv) an agency or instrumentality of an entity described in Subsections (1)(c)(i) through (iii);

698 (d) any portion of federal taxable income for a taxable year if that federal taxable income is
699 derived from stock:

700 (i) in an S corporation; and

701 (ii) that is held by an electing small business trust; and

702 (e) any fiduciary adjustments required by Section 59-10-210.

703 (2) There shall be subtracted from federal taxable income of a resident or nonresident estate
704 or trust:

705 (a) the interest or a dividend on obligations or securities of the United States and its
706 possessions or of any authority, commission, or instrumentality of the United States, to the extent that
707 interest or dividend is included in gross income for federal income tax purposes for the taxable year
708 but exempt from state income taxes under the laws of the United States, but the amount subtracted
709 under this Subsection (2) shall be reduced by any interest on indebtedness incurred or continued to
710 purchase or carry the obligations or securities described in this Subsection (2), and by any expenses
711 incurred in the production of interest or dividend income described in this Subsection (2) to the extent
712 that such expenses, including amortizable bond premiums, are deductible in determining federal
713 taxable income;

714 (b) 1/2 of the net amount of any income tax paid or payable to the United States after all
715 allowable credits, as per the United States fiduciary income tax return of the taxpayer for the same
716 taxable year;

717 (c) income of an irrevocable resident trust if:

718 (i) the income would not be treated as state taxable income derived from Utah sources under
719 Section 59-10-204 if received by a nonresident trust;

720 (ii) the trust first became a resident trust on or after January 1, 2004;

721 (iii) no assets of the trust were held, at any time after January 1, 2003, in another resident
722 irrevocable trust created by the same settlor or the spouse of the same settlor;

723 (iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);

724 (v) the amount subtracted under this Subsection (2) is reduced to the extent the settlor or any
725 other person is treated as an owner of any portion of the trust under Subtitle A, Subchapter J,
726 Subpart E of the Internal Revenue Code; and

727 (vi) the amount subtracted under this Subsection (2) is reduced by any interest on
728 indebtedness incurred or continued to purchase or carry the assets generating the income described in
729 this Subsection (2), and by any expenses incurred in the production of income described in this
730 Subsection (2), to the extent that those expenses, including amortizable bond premiums, are

731 deductible in determining federal taxable income;

732 (d) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or
733 nonresident estate or trust derived from a deceased Ute tribal member:

734 (i) during a time period that the Ute tribal member resided on homesteaded land diminished
735 from the Uintah and Ouray Reservation; and

736 (ii) from a source within the Uintah and Ouray Reservation;

737 (e) (i) for taxable years beginning on or after January 1, 2003, the total amount of a resident
738 or nonresident estate's or trust's short-term capital gain or long-term capital gain on a capital gain
739 transaction:

740 (A) that occurs on or after January 1, 2003;

741 (B) if 70% or more of the gross proceeds of the capital gain transaction are expended:

742 (I) to purchase qualifying stock in a Utah small business corporation; and

743 (II) within a 12-month period after the day on which the capital gain transaction occurs; and

744 (C) if, prior to the purchase of the qualifying stock described in Subsection (2)(e)(i)(B)(I),
745 the resident or nonresident estate or trust did not have an ownership interest in the Utah small
746 business corporation that issued the qualifying stock; and

747 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
748 commission may make rules:

749 (A) defining the term "gross proceeds"; and

750 (B) for purposes of Subsection (2)(e)(i)(C), prescribing the circumstances under which a
751 resident or nonresident estate or trust has an ownership interest in a Utah small business corporation;

752 (f) for the taxable year beginning on or after January 1, 2005, but beginning on or before
753 December 31, 2005, the first \$2,200 of income of a resident or nonresident estate or trust that is
754 derived from a deceased qualifying military service member:

755 (i) for service:

756 (A) as a qualifying military service member; or

757 (B) under an order into active service in accordance with Section 39-1-5; and
758 (ii) to the extent that income is included in total income on that resident or nonresident
759 estate's or trust's federal income tax return for estates and trusts for that taxable year;
760 (g) any amount:
761 (i) received by a resident or nonresident estate or trust;
762 (ii) that constitutes a refund of taxes imposed by:
763 (A) a state; or
764 (B) the District of Columbia; and
765 (iii) to the extent that amount is included in total income on that resident or nonresident
766 estate's or trust's federal tax return for estates and trusts for that taxable year;
767 (h) the amount of a railroad retirement benefit:
768 (i) paid:
769 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;;
770 (B) to a resident or nonresident estate or trust derived from a deceased resident or
771 nonresident individual; and
772 (C) for the taxable year; and
773 (ii) to the extent that railroad retirement benefit is included in total income on that resident or
774 nonresident estate's or trust's federal tax return for estates and trusts;
775 (i) an amount:
776 (i) received by a resident or nonresident estate or trust if that amount is derived from a
777 deceased enrolled member of an American Indian tribe; and
778 (ii) to the extent that the state is not authorized or permitted to impose a tax under this part
779 on that amount in accordance with:
780 (A) federal law;
781 (B) a treaty; or
782 (C) a final decision issued by a court of competent jurisdiction; and

783 (j) any fiduciary adjustments required by Section 59-10-210.

784 (3) Notwithstanding Subsection (1)(c), interest from bonds, notes, and other evidences of
785 indebtedness issued by an entity described in Subsections (1)(c)(i) through (iv) may not be added to
786 federal taxable income of a resident or nonresident estate or trust if, as annually determined by the
787 commission:

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

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

793 (i) the entity; or

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

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

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

797 (i) the income is derived from a deceased Ute tribal member; and

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

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

801 (i) may not:

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

803 (B) provide a subtraction under this section greater than or different from the subtraction
804 described in Subsection (2)(d); or

805 (C) affect the power of the state to establish rates of taxation; and

806 (ii) shall:

807 (A) provide for the implementation of the subtraction described in Subsection (2)(d);

808 (B) be in writing;

- 809 (C) be signed by:
- 810 (I) the governor; and
- 811 (II) the chair of the Business Committee of the Ute tribe;
- 812 (D) be conditioned on obtaining any approval required by federal law; and
- 813 (E) state the effective date of the agreement.
- 814 (c) (i) The governor shall report to the commission by no later than February 1 of each year
- 815 regarding whether or not an agreement meeting the requirements of this Subsection (4) is in effect.
- 816 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
- 817 subtraction permitted under Subsection (2)(d) is not allowed for taxable years beginning on or after
- 818 the January 1 following the termination of the agreement.
- 819 (d) For purposes of Subsection (2)(d) and in accordance with Title 63, Chapter 46a, Utah
- 820 Administrative Rulemaking Act, the commission may make rules:
- 821 (i) for determining whether income is derived from a source within the Uintah and Ouray
- 822 Reservation; and
- 823 (ii) that are substantially similar to how ~~federal~~ adjusted gross income derived from Utah
- 824 sources is determined under Section 59-10-117.
- 825 Section 9. Section **59-10-303** is amended to read:
- 826 **59-10-303. Nonresident's share of partnership income.**
- 827 (1) In determining the adjusted gross income of a nonresident partner of any partnership,
- 828 there shall be included only that part derived from or connected with sources in this state of the
- 829 partner's distributive share of items of partnership income, gain, loss, and deduction entering into ~~his~~
- 830 ~~federal~~ the partner's adjusted gross income, as such part is determined under rules prescribed by the
- 831 commission in accordance with the general rules in Section 59-10-116.
- 832 (2) In determining the sources of a nonresident partner's income, no effect shall be given to a
- 833 provision in the partnership agreement which:
- 834 (a) characterizes payments to the partner as being for services or for the use of capital, or

835 allocates to the partner, as income or gain from sources outside this state, a greater proportion of
836 [his] the partner's distributive share of partnership income or gain than the ratio of partnership income
837 or gain from sources outside this state to partnership income or gain from all sources, except as
838 authorized in Subsection (4);

839 (b) allocates to the partner a greater proportion of a partnership item of loss or deduction
840 connected with sources in this state than [his] the partner's proportionate share, for federal income tax
841 purposes, of partnership loss or deduction generally, except as authorized in Subsection (4).

842 (3) Any modification described in Section 59-10-114 that relates to an item of partnership
843 income, gain, loss, or deduction, shall be made in accordance with the partner's distributive share for
844 federal income tax purposes of the item to which the modification relates, but limited to the portion of
845 such item derived from or connected with sources in this state.

846 (4) The commission may, on application, authorize the use of such other methods of
847 determining a nonresident partner's portion of partnership items derived from or connected with
848 sources in this state, and the modifications related thereto, as may be appropriate and equitable, on
849 such terms and conditions as [it] the commission may require.

850 (5) (a) A nonresident partner's distributive share of items of income, gain, loss, or deduction
851 shall be determined under Subsection 59-10-302(2).

852 (b) The character of partnership items for a nonresident partner shall [~~also~~] be determined
853 under Subsection 59-10-302(1).

854 Section 10. Section **59-10-1002** is amended to read:

855 **59-10-1002. Definitions.**

856 As used in this part:

857 (1) (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1003(2), "claimant"
858 means a resident or nonresident person that has state taxable income [~~under Part 1, Determination~~
859 ~~and Reporting of Tax Liability and Information~~].

860 (b) "Claimant" does not include an estate or trust.

861 (2) Except as provided in Subsection 59-10-1003(2), "estate" means a nonresident estate or
862 a resident estate that has state taxable income [~~under Part 2, Trusts and Estates~~].

863 (3) "Nonrefundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or
864 trust may:

865 (a) claim:

866 (i) as provided by statute; and

867 (ii) in an amount that does not exceed the claimant's, estate's, or trust's tax liability under this
868 chapter for a taxable year; and

869 (b) carry forward or carry back:

870 (i) if allowed by statute; and

871 (ii) to the extent that the amount of the tax credit exceeds the claimant's, estate's, or trust's
872 tax liability under this chapter for a taxable year.

873 (4) Except as provided in Subsection 59-10-1003(2), "trust" means a nonresident trust or a
874 resident trust that has state taxable income [~~under Part 2, Trusts and Estates~~].

875 Section 11. Section **59-10-1005** is amended to read:

876 **59-10-1005. Tax credit for at-home parent.**

877 (1) As used in this section:

878 (a) "At-home parent" means a parent:

879 (i) who provides full-time care at the parent's residence for one or more of the parent's own
880 qualifying children;

881 (ii) who claims the qualifying child as a dependent on the parent's individual income tax return
882 for the taxable year for which the parent claims the credit; and

883 (iii) if the sum of the following amounts are \$3,000 or less for the taxable year for which the
884 parent claims the credit:

885 (A) the total wages, tips, and other compensation listed on all of the parent's federal Forms
886 W-2; and

887 (B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or Loss
888 From Business.

889 (b) "Parent" means an individual who:

890 (i) is the biological mother or father of a qualifying child;

891 (ii) is the stepfather or stepmother of a qualifying child;

892 (iii) (A) legally adopts a qualifying child; or

893 (B) has a qualifying child placed in the individual's home:

894 (I) by a child placing agency as defined in Section 62A-4a-601; and

895 (II) for the purpose of legally adopting the child;

896 (iv) is a foster parent of a qualifying child; or

897 (v) is a legal guardian of a qualifying child.

898 (c) "Qualifying child" means a child who is no more than 12 months of age on the last day of
899 the taxable year for which the tax credit is claimed.

900 (2) For taxable years beginning on or after January 1, 2000, a claimant may claim on the
901 claimant's individual income tax return a nonrefundable tax credit of \$100 for each qualifying child if:

902 (a) the claimant or another claimant filing a joint individual income tax return with the
claimant

903 is an at-home parent; and

904 (b) the ~~federal~~ adjusted gross income of all of the claimants filing the individual income tax
905 return is less than or equal to \$50,000.

906 (3) A claimant may not carry forward or carry back a tax credit authorized by this section.

907 (4) It is the intent of the Legislature that for fiscal years beginning on or after fiscal year
908 2000-01, the Legislature appropriate from the General Fund a sufficient amount to replace Uniform
909 School Fund revenues expended to provide for the tax credit under this section.

910 Section 12. Section **59-10-1201** is enacted to read:

911 **Part 12. Single Rate Individual Income Tax Act**

912 **59-10-1201. Title.**

913 This part is known as the "Single Rate Individual Income Tax Act."

914 Section 13. Section **59-10-1202** is enacted to read:

915 **59-10-1202. Definitions.**

916 As used in this part:

917 (1) "Military service" is as defined in Pub. L. No. 108-189, Sec. 101.

918 (2) "Servicemember" is as defined in Pub. L. No. 108-189, Sec. 101.

919 (3) "State income tax percentage" means a percentage equal to a nonresident individual's
920 adjusted gross income for the taxable year received from Utah sources, as determined under Section
921 59-10-117, divided by the difference between:

922 (a) the nonresident individual's total adjusted gross income for that taxable year; and

923 (b) if the nonresident individual described in Subsection (3)(a) is a servicemember, the
924 compensation the servicemember receives for military service if the servicemember is serving in
925 compliance with military orders.

926 (4) "State taxable income" means a resident or nonresident individual's adjusted gross
927 income after making the:

928 (a) additions and subtractions required by Section 59-10-1204; and

929 (b) adjustments required by Section 59-10-1205.

930 (5) "Unapportioned state tax" means the product of the:

931 (a) difference between:

932 (i) a nonresident individual's state taxable income; and

933 (ii) if the nonresident individual described in Subsection (5)(a)(i) is a servicemember,

934 compensation the servicemember receives for military service if the servicemember is serving in
935 compliance with military orders; and

936 (b) percentage listed in Subsection 59-10-1203(2)(a)(i)(B).

937 Section 14. Section **59-10-1203** is enacted to read:

938 **59-10-1203. Single rate tax for resident or nonresident individual -- Tax rate --**

939 **Contributions -- Exemption -- Amended returns.**

940 (1) For taxable years beginning on or after January 1, 2007, a resident or nonresident
941 individual may calculate and pay a tax under this section as provided in this part.

942 (2) (a) A resident individual that calculates and pays a tax under this section:

943 (i) shall pay for a taxable year an amount equal to the product of:

944 (A) the resident individual's state taxable income for that taxable year; and

945 (B) 5.35%; and

946 (ii) is exempt from paying the tax imposed by Section 59-10-104.

947 (b) A nonresident individual that calculates and pays a tax under this section:

948 (i) shall pay for a taxable year an amount equal to the product of the nonresident individual's:

949 (A) unapportioned state tax; and

950 (B) state income tax percentage; and

951 (ii) is exempt from paying the tax imposed by Section 59-10-116.

952 (3) Except as required by Section 59-10-1204 or 59-10-1205, a resident or nonresident
953 individual that calculates and pays a tax under this section may not make any addition or adjustment
954 to or subtraction from adjusted gross income.

955 (4) A resident or nonresident individual that calculates and pays a tax under this section may
956 designate on the resident or nonresident individual's individual income tax return for a taxable year a
957 contribution allowed by:

958 (a) Section 59-10-530;

959 (b) Section 59-10-530.5;

960 (c) Section 59-10-547;

961 (d) Section 59-10-549;

962 (e) Section 59-10-550;

963 (f) Section 59-10-550.1; or

964 (g) Section 59-10-550.2.

965 (5) This section does not apply to a resident or nonresident individual exempt from taxation
966 under Section 59-10-104.1.

967 (6) (a) A resident or nonresident individual may determine for each taxable year for which
968 the resident or nonresident individual files an individual income tax return under this chapter whether
969 to calculate and pay a tax under this section as provided in this part.

970 (b) If a resident or nonresident individual files an amended return for a taxable year beginning
971 on or after January 1, 2007, the resident or nonresident individual may determine whether to calculate
972 and pay a tax under this section as provided in this part for that taxable year.

973 Section 15. Section **59-10-1204** is enacted to read:

974 **59-10-1204. Additions to and subtractions from adjusted gross income of a resident**
975 **or nonresident individual.**

976 (1) In calculating state taxable income for purposes of this part, the following amounts shall
977 be added to the adjusted gross income of a resident or nonresident individual:

978 (a) the amount described in Subsection 59-10-114(1)(a), if that amount is deducted by a
979 resident or nonresident estate or trust in determining federal taxable income;

980 (b) the lump sum distribution described in Subsection 59-10-114(1)(b);

981 (c) subject to Subsection 59-10-114(5), the amount described in Subsection
982 59-10-114(1)(c);

983 (d) a withdrawal described in Subsection 59-10-114(1)(e);

984 (e) the amount described in Subsection 59-10-114(1)(f);

985 (f) subject to Subsection 59-10-114(6), the interest described in Subsection
986 59-10-114(1)(g);

987 (g) a distribution described in Subsection 59-10-114(1)(h);

988 (h) a distribution described in Subsection 59-10-114(1)(i); or

989 (i) an expense described in Subsection 59-10-114(1)(j).

990 (2) In calculating state taxable income for purposes of this part, the following amounts shall

991 be subtracted from the adjusted gross income of a resident or nonresident individual:

992 (a) the interest or dividends described in Subsection 59-10-114(2)(a);

993 (b) subject to Subsection 59-10-114(4), the amount described in Subsection

994 59-10-114(2)(k);

995 (c) an amount described in Subsection 59-10-114(2)(n);

996 (d) the amount described in Subsection 59-10-114(2)(o); and

997 (e) an amount described in Subsection 59-10-114(2)(p).

998 Section 16. Section **59-10-1205** is enacted to read:

999 **59-10-1205. Adjustments to adjusted gross income of a resident or nonresident**

1000 **individual.**

1001 (1) In calculating state taxable income for purposes of this part, the commission shall allow

1002 an adjustment to adjusted gross income of a resident or nonresident individual if the resident or

1003 nonresident individual would otherwise:

1004 (a) receive a double tax benefit under this part; or

1005 (b) suffer a double tax detriment under this part.

1006 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1007 commission may make rules to allow for the adjustment to adjusted gross income required by

1008 Subsection (1).

1009 Section 17. Section **59-10-1206** is enacted to read:

1010 **59-10-1206. Tax credits.**

1011 (1) Subject to Subsections (2) and (3), a resident or nonresident individual that calculates

1012 and pays a tax as provided in this part may claim, carry forward, or carry back any tax credit for a

1013 taxable year:

1014 (a) against the tax liability that the resident or nonresident individual would otherwise be

1015 required to pay; and

1016 (b) that the resident or nonresident individual would have been allowed to claim, carry

1017 forward, or carry back for the taxable year had the resident or nonresident individual been subject to
1018 a tax imposed by Part 1, Determination and Reporting of Tax Liability and Information, for that
1019 taxable year.

1020 (2) A resident or nonresident individual that calculates and pays a tax as provided in this part
1021 shall:

1022 (a) determine the resident or nonresident individual's eligibility to claim a tax credit on the
1023 basis of the resident or nonresident individual's tax liability under this part; and

1024 (b) calculate a tax credit on the basis of the resident or nonresident individual's tax liability
1025 under this part.

1026 (3) If a resident or nonresident individual that calculates and pays a tax as provided in this
1027 part claims a refundable tax credit, the resident or nonresident individual may receive a refund for the
1028 amount of the tax credit that exceeds the resident or nonresident individual's tax liability for the
1029 taxable year as allowed by the statute authorizing the refundable tax credit.

1030 (4) The commission shall administer a tax credit that a resident or nonresident individual
1031 claims, carries forward, or carries back in accordance with the statute authorizing the tax credit.

1032 Section 18. Section **59-10-1207** is enacted to read:

1033 **59-10-1207. Administration, collection, and enforcement of tax.**

1034 (1) Except as provided in this part, the commission shall administer, collect, and enforce a
1035 tax described in Subsection 59-10-1203(2) in accordance with:

1036 (a) (i) for a tax described in Subsection 59-10-1203(2)(a), the procedures used to
1037 administer, collect, and enforce the tax described in Section 59-10-104; or

1038 (ii) for a tax described in Subsection 59-10-1203(2)(b), the procedures used to administer,
1039 collect, and enforce the tax described in Section 59-10-116; and

1040 (b) the procedures established in:

1041 (i) Part 1, Determination and Reporting of Tax Liability and Information;

1042 (ii) Part 3, Partnerships;

1043 (iii) Part 4, Withholding of Tax;
1044 (iv) Part 5, Procedure and Administration; and
1045 (v) Part 8, Limited Liability Companies.
1046 (2) In administering, collecting, and enforcing a tax described in Subsection 59-10-1203(2),
1047 the commission shall interpret:
1048 (a) the references to the term "federal taxable income" in Section 59-10-119 to be changed
1049 to "adjusted gross income";
1050 (b) the references to Section 59-10-114 in Sections 59-10-302 and 59-10-303 to be
1051 changed to Section 59-10-1204; and
1052 (c) any other reference to a term or provision in the following to be consistent with the
1053 calculation of a tax under this part:
1054 (i) Part 1, Determination and Reporting of Tax Liability and Information;
1055 (ii) Part 3, Partnerships;
1056 (iii) Part 4, Withholding of Tax;
1057 (iv) Part 5, Procedure and Administration; and
1058 (v) Part 8, Limited Liability Companies.
1059 **Section 19. Repealer.**
1060 This bill repeals:
1061 **Section 59-10-102, Declaration of intent.**
1062 **Section 59-10-105, Optional tax -- Calculation -- Commission authority to prescribed**
1063 **tax tables -- Exemption.**
1064 **Section 59-10-111, Federal taxable income defined.**
1065 **Section 59-10-112, State taxable income of a resident individual.**
1066 **Section 20. Effective date -- Retrospective operation.**
1067 (1) Except as provided in Subsection (2), this bill takes effect for taxable years beginning on
1068 or after January 1, 2007.

1069 (2) The amendments in this bill to Section 59-10-104 have retrospective operation for
1070 taxable years beginning on or after January 1, 2006.