

Representative Lee B. Perry proposes the following substitute bill:

**MILITARY RETIREMENT INCOME TAX EXEMPTION**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lee B. Perry**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill exempts retirement pay for service in the armed forces.

**Highlighted Provisions:**

This bill:

- ▶ exempts all retirement payments related to service within the armed forces; and
- ▶ phases the exemption in over a four-year period.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**59-10-114**, as last amended by Laws of Utah 2010, Chapter 6

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

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

**59-10-114. Additions to and subtractions from adjusted gross income of an individual.**



- 26 (1) There shall be added to adjusted gross income of a resident or nonresident  
27 individual:
- 28 (a) a lump sum distribution that the taxpayer does not include in adjusted gross income  
29 on the taxpayer's federal individual income tax return for the taxable year;
- 30 (b) the amount of a child's income calculated under Subsection (4) that:
- 31 (i) a parent elects to report on the parent's federal individual income tax return for the  
32 taxable year; and
- 33 (ii) the parent does not include in adjusted gross income on the parent's federal  
34 individual income tax return for the taxable year;
- 35 (c) (i) a withdrawal from a medical care savings account and any penalty imposed for  
36 the taxable year if:
- 37 (A) the resident or nonresident individual does not deduct the amounts on the resident  
38 or nonresident individual's federal individual income tax return under Section 220, Internal  
39 Revenue Code;
- 40 (B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and
- 41 (C) the withdrawal is:
- 42 (I) subtracted on a return the resident or nonresident individual files under this chapter  
43 for a taxable year beginning on or before December 31, 2007; or
- 44 (II) used as the basis for a resident or nonresident individual to claim a tax credit under  
45 Section 59-10-1021;
- 46 (ii) a disbursement required to be added to adjusted gross income in accordance with  
47 Subsection 31A-32a-105(3); or
- 48 (iii) an amount required to be added to adjusted gross income in accordance with  
49 Subsection 31A-32a-105(5)(c);
- 50 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,  
51 from the account of a resident or nonresident individual who is an account owner as defined in  
52 Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount  
53 withdrawn from the account of the resident or nonresident individual who is the account  
54 owner:
- 55 (i) is not expended for:
- 56 (A) higher education costs as defined in Section 53B-8a-102; or

57 (B) a payment or distribution that qualifies as an exception to the additional tax for  
58 distributions not used for educational expenses provided in Sections 529(c) and 530(d),  
59 Internal Revenue Code; and

60 (ii) is:

61 (A) subtracted by the resident or nonresident individual:

62 (I) who is the account owner; and

63 (II) on the resident or nonresident individual's return filed under this chapter for a  
64 taxable year beginning on or before December 31, 2007; or

65 (B) used as the basis for the resident or nonresident individual who is the account  
66 owner to claim a tax credit under Section 59-10-1017;

67 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of  
68 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other  
69 evidences of indebtedness issued by one or more of the following entities:

70 (i) a state other than this state;

71 (ii) the District of Columbia;

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

73 (iv) an agency or instrumentality of an entity described in Subsections (1)(e)(i) through  
74 (iii);

75 (f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a  
76 resident trust of income that was taxed at the trust level for federal tax purposes, but was  
77 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

78 (g) any distribution received by a resident beneficiary of a nonresident trust of  
79 undistributed distributable net income realized by the trust on or after January 1, 2004, if that  
80 undistributed distributable net income was taxed at the trust level for federal tax purposes, but  
81 was not taxed at the trust level by any state, with undistributed distributable net income  
82 considered to be distributed from the most recently accumulated undistributed distributable net  
83 income; and

84 (h) any adoption expense:

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

87 (ii) to the extent to which the resident or nonresident individual subtracts that adoption

88 expense:

89 (A) on a return filed under this chapter for a taxable year beginning on or before  
90 December 31, 2007; or

91 (B) from federal taxable income on a federal individual income tax return.

92 (2) There shall be subtracted from adjusted gross income of a resident or nonresident  
93 individual:

94 (a) the difference between:

95 (i) the interest or a dividend on an obligation or security of the United States or an  
96 authority, commission, instrumentality, or possession of the United States, to the extent that  
97 interest or dividend is:

98 (A) included in adjusted gross income for federal income tax purposes for the taxable  
99 year; and

100 (B) exempt from state income taxes under the laws of the United States; and

101 (ii) any interest on indebtedness incurred or continued to purchase or carry the  
102 obligation or security described in Subsection (2)(a)(i);

103 (b) for taxable years beginning on or after January 1, 2000, if the conditions of  
104 Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

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

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

108 (c) an amount received by a resident or nonresident individual or distribution received  
109 by a resident or nonresident beneficiary of a resident trust:

110 (i) if that amount or distribution constitutes a refund of taxes imposed by:

111 (A) a state; or

112 (B) the District of Columbia; and

113 (ii) to the extent that amount or distribution is included in adjusted gross income for  
114 that taxable year on the federal individual income tax return of the resident or nonresident  
115 individual or resident or nonresident beneficiary of a resident trust;

116 (d) the amount of a railroad retirement benefit:

117 (i) paid:

118 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et

119 seq.;

120 (B) to a resident or nonresident individual; and

121 (C) for the taxable year; and

122 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on

123 that resident or nonresident individual's federal individual income tax return for that taxable

124 year; [~~and~~]

125 (e) an amount:

126 (i) received by an enrolled member of an American Indian tribe; and

127 (ii) to the extent that the state is not authorized or permitted to impose a tax under this

128 part on that amount in accordance with:

129 (A) federal law;

130 (B) a treaty; or

131 (C) a final decision issued by a court of competent jurisdiction[~~;~~]; and

132 (f) retirement pay received by the taxpayer from the federal government, in accordance

133 with the schedule in Subsection (6), for:

134 (i) service performed in an active component of the United States Armed Forces or a

135 reserve component of the United States Armed Forces, as defined in Section 59-10-1027; and

136 (ii) in the amount included in adjusted gross income for that taxable year on the

137 taxpayer's federal individual income tax return.

138 (3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

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

140 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the

141 requirements of this Subsection (3).

142 (b) The agreement described in Subsection (3)(a):

143 (i) may not:

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

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

146 subtraction described in Subsection (2)(b); or

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

148 (ii) shall:

149 (A) provide for the implementation of the subtraction described in Subsection (2)(b);

- 150 (B) be in writing;
- 151 (C) be signed by:
- 152 (I) the governor; and
- 153 (II) the chair of the Business Committee of the Ute tribe;
- 154 (D) be conditioned on obtaining any approval required by federal law; and
- 155 (E) state the effective date of the agreement.
- 156 (c) (i) The governor shall report to the commission by no later than February 1 of each
- 157 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is
- 158 in effect.
- 159 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the
- 160 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or
- 161 after the January 1 following the termination of the agreement.
- 162 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,
- 163 Utah Administrative Rulemaking Act, the commission may make rules:
- 164 (i) for determining whether income is derived from a source within the Uintah and
- 165 Ouray Reservation; and
- 166 (ii) that are substantially similar to how adjusted gross income derived from Utah
- 167 sources is determined under Section [59-10-117](#).
- 168 (4) (a) For purposes of this Subsection (4), "Form 8814" means:
- 169 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's
- 170 Interest and Dividends; or
- 171 (ii) (A) a form designated by the commission in accordance with Subsection
- 172 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal
- 173 individual income taxes the information contained on 2000 Form 8814 is reported on a form
- 174 other than Form 8814; and
- 175 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter
- 176 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as
- 177 being substantially similar to 2000 Form 8814 if for purposes of federal individual income
- 178 taxes the information contained on 2000 Form 8814 is reported on a form other than Form
- 179 8814.
- 180 (b) The amount of a child's income added to adjusted gross income under Subsection

181 (1)(b) is equal to the difference between:

182 (i) the lesser of:

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

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

185 (I) the child's taxable interest;

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

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

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

189 (5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences  
190 of indebtedness issued by an entity described in Subsections (1)(e)(i) through (iv) may not be  
191 added to adjusted gross income of a resident or nonresident individual if, as annually  
192 determined by the commission:

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

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

199 (i) the entity; or

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

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

202 (6) The exemption in Subsection (2)(f) shall be phased in over a four year period.

203 (a) For the taxable year beginning on or after January 1, 2017, and ending on or before  
204 December 31, 2017, 25% of the eligible retirement pay is exempt from tax.

205 (b) For the taxable year beginning on or after January 1, 2018, and ending on or before  
206 December 31, 2018, 50% of the eligible retirement pay is exempt from tax.

207 (c) For the taxable year beginning on or after January 1, 2019, and ending on or before  
208 December 31, 2019, 75% of the eligible retirement pay is exempt from tax.

209 (d) For taxable years beginning on or after January 1, 2020, 100% of the eligible  
210 retirement pay is exempt from tax.