

Representative John R. Westwood proposes the following substitute bill:

SOCIAL SECURITY TAX CREDIT

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John R. Westwood

Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill provides for an individual income tax credit for certain social security benefits.

Highlighted Provisions:

This bill:

- defines social security benefit;
- provides that a claimant may claim a tax credit for certain social security benefits that are included in the claimant's federal adjusted gross income;
- provides that a claimant may claim either the retirement tax credit or the tax credit enacted by this bill; and
- provides for rulemaking authority.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-10-1002.2, as last amended by Laws of Utah 2016, Chapter 263

59-10-1019, as renumbered and amended by Laws of Utah 2008, Chapter 389



ENACTS:

59-10-1038, Utah Code Annotated 1953

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

Section 1. Section **59-10-1002.2** is amended to read:

59-10-1002.2. Apportionment of tax credits.

(1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section **59-10-1017**, **59-10-1018**, **59-10-1019**, **59-10-1022**, **59-10-1023**, **59-10-1024**, [or] **59-10-1028**, or **59-10-1038** may only claim an apportioned amount of the tax credit equal to:

(a) for a nonresident individual, the product of:

(i) the state income tax percentage for the nonresident individual; and

(ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

(b) for a part-year resident individual, the product of:

(i) the state income tax percentage for the part-year resident individual; and

(ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.

(2) A nonresident estate or trust that claims a tax credit in accordance with Section **59-10-1017**, **59-10-1020**, **59-10-1022**, **59-10-1024**, or **59-10-1028** may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the nonresident estate or trust; and

(b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but for the apportionment requirements of this section.

Section 2. Section **59-10-1019** is amended to read:

59-10-1019. Definitions -- Nonrefundable retirement tax credits.

(1) As used in this section:

(a) "Eligible age 65 or older retiree" means a claimant, regardless of whether that claimant is retired, who:

(i) is 65 years of age or older; and

(ii) was born on or before December 31, 1952.

(b) (i) "Eligible retirement income" means income received by an eligible under age 65 retiree as a pension or annuity if that pension or annuity is:

(A) paid to the eligible under age 65 retiree or the surviving spouse of an eligible under age 65 retiree; and

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

(II) purchased by an employee under a plan that meets the requirements of Section 408, Internal Revenue Code; or

(III) paid by:

(Aa) the United States;

(Bb) a state or a political subdivision of a state; or

(Cc) the District of Columbia.

(ii) "Eligible retirement income" does not include amounts received by the spouse of a living eligible under age 65 retiree because of the eligible under age 65 retiree's having been employed in a community property state.

(c) "Eligible under age 65 retiree" means a claimant, regardless of whether that claimant is retired, who:

(i) is younger than 65 years of age;

(ii) was born on or before December 31, 1952; and

(iii) has eligible retirement income for the taxable year for which a tax credit is claimed under this section.

(d) "Head of household filing status" is as defined in Section 59-10-1018.

(e) "Joint filing status" is as defined in Section 59-10-1018.

(f) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(g) "Modified adjusted gross income" means the sum of an eligible age 65 or older retiree's or eligible under age 65 retiree's:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(g)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(g)(i).

(h) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(2) Except as provided in Section 59-10-1002.2 and Subsection (6) and subject to Subsections (3) through (5):

(a) each eligible age 65 or older retiree may claim a nonrefundable tax credit of \$450 against taxes otherwise due under this part; or

(b) each eligible under age 65 retiree may claim a nonrefundable tax credit against taxes otherwise due under this part in an amount equal to the lesser of:

(i) \$288; or

(ii) the product of:

(A) the eligible under age 65 retiree's eligible retirement income for the taxable year for which the eligible under age 65 retiree claims a tax credit under this section; and

(B) 6%.

(3) A tax credit under this section may not be carried forward or carried back.

(4) The sum of the tax credits allowed by Subsection (2) claimed on one return filed under this part shall be reduced by \$.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, \$16,000;

(b) for a federal individual income tax return that is allowed a single filing status, \$25,000;

(c) for a federal individual income tax return that is allowed a head of household filing status, \$32,000; or

(d) for a return under this chapter that is allowed a joint filing status, \$32,000.

(5) For purposes of determining the ownership of items of retirement income under this section, common law doctrine shall be applied in all cases even though some items of retirement income may have originated from service or investments in a community property

state.

(6) If an eligible age 65 or older retiree or an eligible under age 65 retiree qualifies for a tax credit under this section and under Section 59-10-1038, the eligible age 65 or older retiree or eligible under age 65 retiree may claim either the tax credit under this section or the tax credit under Section 59-10-1038.

Section 3. Section **59-10-1038** is enacted to read:

59-10-1038. Nonrefundable tax credit for social security benefit.

(1) As used in this section:

(a) "Claimant" means a resident or nonresident individual whose federal adjusted gross income reported on the state individual income tax return consists of at least 50% taxable social security benefit.

(b) "Social security benefit" means ~~the same as that term is defined in Section 86, Internal Revenue Code~~ an amount received by a claimant as a monthly benefit in accordance with Social Security Act, 42 U.S.C. Sec. 401 et seq. ~~←~~ .

(2) Except as provided in Section 59-10-1002.2, a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the product of:

(a) 5%; and

(b) the claimant's taxable social security benefit.

(3) A claimant:

(a) may not carry forward or carry back a tax credit under this section;

(b) may, if the claimant qualifies for a tax credit under this section and Section 59-10-1019, claim either the tax credit under this section or the tax credit under Section 59-10-1019; and

(c) may claim a tax credit under this section for a taxable year beginning on or after January 1, 2018 ~~←~~ , but on or before a taxable year that ends on December 31, 2022 ~~←~~ .

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the calculation and method for claiming the tax credit described in this section.