

**FDIC PREMIUM DEDUCTION AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jerry W. Stevenson**

House Sponsor: Tim Quinn

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**LONG TITLE**

**General Description:**

This bill modifies the Corporate Franchise and Income Taxes code and the Individual Income Tax Act by amending provisions relating to certain subtractions from unadjusted income or adjusted gross income.

**Highlighted Provisions:**

This bill:

- ▶ enacts a provision that authorizes a subtraction from unadjusted income of a corporate taxpayer, adjusted gross income of an individual income taxpayer, and unadjusted income of a resident or nonresident estate or trust for certain amounts of FDIC premiums paid or incurred by the taxpayer that are disallowed as a deduction for federal income tax purposes; and

- ▶ makes technical corrections.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:**

AMENDS:

**59-7-106**, as last amended by Laws of Utah 2017, Chapter 389

**59-10-114**, as last amended by Laws of Utah 2018, Chapters 190 and 370

**59-10-202**, as last amended by Laws of Utah 2018, Chapter 190

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

31 Section 1. Section **59-7-106** is amended to read:

32 **59-7-106. Subtractions from unadjusted income.**

33 (1) In computing adjusted income, the following amounts shall be subtracted from  
34 unadjusted income:

35 (a) the foreign dividend gross-up included in gross income for federal income tax  
36 purposes under Section 78, Internal Revenue Code;

37 (b) subject to Subsection (2), the net capital loss, as defined for federal purposes, if the  
38 taxpayer elects to deduct the net capital loss on the return filed under this chapter for the  
39 taxable year for which the net capital loss is incurred;

40 (c) the decrease in salary expense deduction for federal income tax purposes due to  
41 claiming the federal work opportunity credit under Section 51, Internal Revenue Code;

42 (d) the decrease in qualified research and basic research expense deduction for federal  
43 income tax purposes due to claiming the federal credit for increasing research activities under  
44 Section 41, Internal Revenue Code;

45 (e) the decrease in qualified clinical testing expense deduction for federal income tax  
46 purposes due to claiming the federal credit for clinical testing expenses for certain drugs for  
47 rare diseases or conditions under Section 45C, Internal Revenue Code;

48 (f) any decrease in any expense deduction for federal income tax purposes due to  
49 claiming any other federal credit;

50 (g) the safe harbor lease adjustment required under Subsections **59-7-111(1)(b)** and  
51 **(2)(b)**;

52 (h) any income on the federal corporation income tax return that has been previously  
53 taxed by Utah;

54 (i) an amount included in federal taxable income that is due to a refund of a tax,  
55 including a franchise tax, an income tax, a corporate stock and business tax, or an occupation  
56 tax:

57 (i) if that tax is imposed for the privilege of:

- 58 (A) doing business; or
- 59 (B) exercising a corporate franchise;
- 60 (ii) if that tax is paid by the corporation to:
  - 61 (A) Utah;
  - 62 (B) another state of the United States;
  - 63 (C) a foreign country;
  - 64 (D) a United States possession; or
  - 65 (E) the Commonwealth of Puerto Rico; and
- 66 (iii) to the extent that tax was added to unadjusted income under Section 59-7-105;
- 67 (j) a charitable contribution, to the extent the charitable contribution is allowed as a
- 68 subtraction under Section 59-7-109;
- 69 (k) subject to Subsection (3), 50% of a dividend considered to be received or received
- 70 from a subsidiary that:
  - 71 (i) is a member of the unitary group;
  - 72 (ii) is organized or incorporated outside of the United States; and
  - 73 (iii) is not included in a combined report under Section 59-7-402 or 59-7-403;
- 74 (l) subject to Subsection (4) and Section 59-7-401, 50% of the adjusted income of a
- 75 foreign operating company;
- 76 (m) the amount of gain or loss that is included in unadjusted income but not recognized
- 77 for federal purposes on stock sold or exchanged by a member of a selling consolidated group as
- 78 defined in Section 338, Internal Revenue Code, if an election has been made in accordance
- 79 with Section 338(h)(10), Internal Revenue Code;
- 80 (n) the amount of gain or loss that is included in unadjusted income but not recognized
- 81 for federal purposes on stock sold, exchanged, or distributed by a corporation in accordance
- 82 with Section 336(e), Internal Revenue Code, if an election under Section 336(e), Internal
- 83 Revenue Code, has been made for federal purposes;
- 84 (o) subject to Subsection (5), an adjustment to the following due to a difference
- 85 between basis for federal purposes and basis as computed under Section 59-7-107:

- 86 (i) an amortization expense;
- 87 (ii) a depreciation expense;
- 88 (iii) a gain;
- 89 (iv) a loss; or
- 90 (v) an item similar to Subsections (1)(o)(i) through (iv);
- 91 (p) an interest expense that is not deducted on a federal corporation income tax return
- 92 under Section 265(b) or 291(e), Internal Revenue Code;
- 93 (q) 100% of dividends received from a subsidiary that is an insurance company if that
- 94 subsidiary that is an insurance company is:
  - 95 (i) exempt from this chapter under Subsection 59-7-102(1)(c); and
  - 96 (ii) under common ownership;
  - 97 (r) subject to Subsection 59-7-105(10), for a corporation that is an account owner as
  - 98 defined in Section 53B-8a-102, the amount of a qualified investment as defined in Section
  - 99 53B-8a-102.5:
    - 100 (i) that the corporation or a person other than the corporation makes into an account
    - 101 owned by the corporation during the taxable year;
    - 102 (ii) to the extent that neither the corporation nor the person other than the corporation
    - 103 described in Subsection (1)(r)(i) deducts the qualified investment on a federal income tax
    - 104 return; and
    - 105 (iii) to the extent the qualified investment does not exceed the maximum amount of the
    - 106 qualified investment that may be subtracted from unadjusted income for a taxable year in
    - 107 accordance with Subsection 53B-8a-106(1);
    - 108 (s) for a corporation that makes a donation, as that term is defined in Section
    - 109 53B-8a-201, to the Student Prosperity Savings Program created in Section 53B-8a-202, the
    - 110 amount of the donation to the extent that the corporation did not deduct the donation on a
    - 111 federal income tax return;
    - 112 (t) for purposes of income included in a combined report under Part 4, Combined
    - 113 Reporting, the entire amount of the dividends a member of a unitary group receives or is

114 considered to receive from a captive real estate investment trust; ~~and~~

115 (u) the increase in income for federal income tax purposes due to claiming a:

116 (i) qualified tax credit bond credit under Section 54A, Internal Revenue Code; or

117 (ii) qualified zone academy bond under Section 1397E, Internal Revenue Code~~[-]~~;

118 (v) for a taxable year beginning on or after January 1, 2019, but beginning on or before

119 December 31, 2019, only:

120 (i) the amount of any FDIC premium paid or incurred by the taxpayer that is

121 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal

122 Revenue Code, on the taxpayer's 2018 federal income tax return; plus

123 (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is

124 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal

125 Revenue Code, for the taxable year; and

126 (w) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC

127 premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income

128 tax purposes under Section 162(r), Internal Revenue Code, for the taxable year.

129 (2) For purposes of Subsection (1)(b):

130 (a) the subtraction shall be made by claiming the subtraction on a return filed:

131 (i) under this chapter for the taxable year for which the net capital loss is incurred; and

132 (ii) by the due date of the return, including extensions; and

133 (b) a net capital loss for a taxable year shall be:

134 (i) subtracted for the taxable year for which the net capital loss is incurred; or

135 (ii) carried forward as provided in Sections 1212(a)(1)(B) and (C), Internal Revenue

136 Code.

137 (3) (a) For purposes of calculating the subtraction provided for in Subsection (1)(k), a

138 taxpayer shall first subtract from a dividend considered to be received or received an expense

139 directly attributable to that dividend.

140 (b) For purposes of Subsection (3)(a), the amount of an interest expense that is

141 considered to be directly attributable to a dividend is calculated by multiplying the interest

142 expense by a fraction:

143 (i) the numerator of which is the taxpayer's average investment in the dividend paying  
144 subsidiaries; and

145 (ii) the denominator of which is the taxpayer's average total investment in assets.

146 (c) (i) For purposes of calculating the subtraction allowed by Subsection (1)(k), in  
147 determining income apportionable to this state, a portion of the factors of a foreign subsidiary  
148 that has dividends that are partially subtracted under Subsection (1)(k) shall be included in the  
149 combined report factors as provided in this Subsection (3)(c).

150 (ii) For purposes of Subsection (3)(c)(i), the portion of the factors of a foreign  
151 subsidiary that has dividends that are partially subtracted under Subsection (1)(k) that shall be  
152 included in the combined report factors is calculated by multiplying each factor of the foreign  
153 subsidiary by a fraction:

154 (A) not to exceed 100%; and

155 (B) (I) the numerator of which is the amount of the dividend paid by the foreign  
156 subsidiary that is included in adjusted income; and

157 (II) the denominator of which is the current year earnings and profits of the foreign  
158 subsidiary as determined under the Internal Revenue Code.

159 (4) (a) For purposes of Subsection (1)(l), a taxpayer may not make a subtraction under  
160 Subsection (1)(l):

161 (i) if the taxpayer elects to file a worldwide combined report as provided in Section  
162 [59-7-403](#); or

163 (ii) for the following:

164 (A) income generated from intangible property; or

165 (B) a capital gain, dividend, interest, rent, royalty, or other similar item that is  
166 generated from an asset held for investment and not from a regular business trading activity.

167 (b) In calculating the subtraction provided for in Subsection (1)(l), a foreign operating  
168 company:

169 (i) may not subtract an amount provided for in Subsection (1)(k) or (l); and

170 (ii) prior to determining the subtraction under Subsection (1)(l), shall eliminate a  
171 transaction that occurs between members of a unitary group.

172 (c) For purposes of the subtraction provided for in Subsection (1)(l), in determining  
173 income apportionable to this state, the factors for a foreign operating company shall be  
174 included in the combined report factors in the same percentages as the foreign operating  
175 company's adjusted income is included in the combined adjusted income.

176 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
177 commission may by rule define what constitutes:

178 (i) income generated from intangible property; or

179 (ii) a capital gain, dividend, interest, rent, royalty, or other similar item that is  
180 generated from an asset held for investment and not from a regular business trading activity.

181 (5) (a) For purposes of the subtraction provided for in Subsection (1)(o), the amount of  
182 a reduction in basis shall be allowed as an expense for the taxable year in which a federal tax  
183 credit is claimed if:

184 (i) there is a reduction in federal basis for a federal tax credit; and

185 (ii) there is no corresponding tax credit allowed in this state.

186 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
187 commission may by rule define what constitutes an item similar to Subsections (1)(o)(i)  
188 through (iv).

189 Section 2. Section **59-10-114** is amended to read:

190 **59-10-114. Additions to and subtractions from adjusted gross income of an**  
191 **individual.**

192 (1) There shall be added to adjusted gross income of a resident or nonresident  
193 individual:

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

196 (b) the amount of a child's income calculated under Subsection (4) that:

197 (i) a parent elects to report on the parent's federal individual income tax return for the

198 taxable year; and

199           (ii) the parent does not include in adjusted gross income on the parent's federal

200 individual income tax return for the taxable year;

201           (c) (i) a withdrawal from a medical care savings account and any penalty imposed for

202 the taxable year if:

203           (A) the resident or nonresident individual does not deduct the amounts on the resident

204 or nonresident individual's federal individual income tax return under Section 220, Internal

205 Revenue Code;

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

207           (C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a

208 return the resident or nonresident individual files under this chapter;

209           (ii) a disbursement required to be added to adjusted gross income in accordance with

210 Subsection 31A-32a-105(3); or

211           (iii) an amount required to be added to adjusted gross income in accordance with

212 Subsection 31A-32a-105(5)(c);

213           (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,

214 from the account of a resident or nonresident individual who is an account owner as defined in

215 Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount

216 withdrawn from the account of the resident or nonresident individual who is the account

217 owner:

218           (i) is not expended for:

219           (A) higher education costs as defined in Section 53B-8a-102.5; or

220           (B) a payment or distribution that qualifies as an exception to the additional tax for

221 distributions not used for educational expenses provided in Sections 529(c) and 530(d),

222 Internal Revenue Code; and

223           (ii) is:

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

225           (I) who is the account owner; and



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

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

230 (e) except as provided in Subsection (5), for bonds, notes, and other evidences of  
231 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other  
232 evidences of indebtedness:

233 (i) issued by one or more of the following entities:

234 (A) a state other than this state;

235 (B) the District of Columbia;

236 (C) a political subdivision of a state other than this state; or

237 (D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A)  
238 through (C); and

239 (ii) to the extent the interest is not included in adjusted gross income on the taxpayer's  
240 federal income tax return for the taxable year;

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

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

250 (h) any adoption expense:

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

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

254 expense:

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

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

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

260 (a) the difference between:

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

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

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

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

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

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

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

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

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

277 (A) a state; or

278 (B) the District of Columbia; and

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

- 282 (d) the amount of a railroad retirement benefit:
- 283 (i) paid:
- 284 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
- 285 seq.;
- 286 (B) to a resident or nonresident individual; and
- 287 (C) for the taxable year; and
- 288 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on
- 289 that resident or nonresident individual's federal individual income tax return for that taxable
- 290 year;
- 291 (e) an amount:
- 292 (i) received by an enrolled member of an American Indian tribe; and
- 293 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
- 294 part on that amount in accordance with:
- 295 (A) federal law;
- 296 (B) a treaty; or
- 297 (C) a final decision issued by a court of competent jurisdiction;
- 298 (f) an amount received:
- 299 (i) for the interest on a bond, note, or other obligation issued by an entity for which
- 300 state statute provides an exemption of interest on its bonds from state individual income tax;
- 301 (ii) by a resident or nonresident individual;
- 302 (iii) for the taxable year; and
- 303 (iv) to the extent the amount is included in adjusted gross income on the taxpayer's
- 304 federal income tax return for the taxable year; [~~and~~]
- 305 (g) the amount of all income, including income apportioned to another state, of a
- 306 nonmilitary spouse of an active duty military member if:
- 307 (i) both the nonmilitary spouse and the active duty military member are nonresident
- 308 individuals;
- 309 (ii) the active duty military member is stationed in Utah;

310 (iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec.  
311 4001(a)(2); and

312 (iv) the income is included in adjusted gross income for federal income tax purposes  
313 for the taxable year<sup>[7]</sup>;

314 (h) for a taxable year beginning on or after January 1, 2019, but beginning on or before  
315 December 31, 2019, only:

316 (i) the amount of any FDIC premium paid or incurred by the taxpayer that is  
317 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal  
318 Revenue Code, on the taxpayer's 2018 federal income tax return; plus

319 (ii) the amount of any FDIC premium paid or incurred by the taxpayer that is  
320 disallowed as a deduction for federal income tax purposes under Section 162(r), Internal  
321 Revenue Code, for the taxable year; and

322 (i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC  
323 premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income  
324 tax purposes under Section 162(r), Internal Revenue Code, for the taxable year.

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

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

327 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the  
328 requirements of this Subsection (3).

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

330 (i) may not:

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

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

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

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

335 (ii) shall:

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

337 (B) be in writing;

- 338 (C) be signed by:
- 339 (I) the governor; and
- 340 (II) the chair of the Business Committee of the Ute tribe;
- 341 (D) be conditioned on obtaining any approval required by federal law; and
- 342 (E) state the effective date of the agreement.

343 (c) (i) The governor shall report to the commission by no later than February 1 of each  
344 year regarding whether or not an agreement meeting the requirements of this Subsection (3) is  
345 in effect.

346 (ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the  
347 subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or  
348 after the January 1 following the termination of the agreement.

349 (d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3,  
350 Utah Administrative Rulemaking Act, the commission may make rules:

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

353 (ii) that are substantially similar to how adjusted gross income derived from Utah  
354 sources is determined under Section [59-10-117](#).

355 (4) (a) For purposes of this Subsection (4), "Form 8814" means:

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

358 (ii) (A) a form designated by the commission in accordance with Subsection  
359 (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal  
360 individual income taxes the information contained on 2000 Form 8814 is reported on a form  
361 other than Form 8814; and

362 (B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter  
363 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as  
364 being substantially similar to 2000 Form 8814 if for purposes of federal individual income  
365 taxes the information contained on 2000 Form 8814 is reported on a form other than Form

366 8814.

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

369 (i) the lesser of:

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

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

372 (I) the child's taxable interest;

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

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

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

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

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

383 (b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not  
384 impose a tax based on income on any part of the bonds, notes, and other evidences of  
385 indebtedness of this state:

386 (i) the entity; or

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

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

389 Section 3. Section **59-10-202** is amended to read:

390 **59-10-202. Additions to and subtractions from unadjusted income of a resident or**  
391 **nonresident estate or trust.**

392 (1) There shall be added to unadjusted income of a resident or nonresident estate or  
393 trust:

394 (a) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal  
395 Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue Code, in  
396 determining adjusted gross income;

397 (b) except as provided in Subsection (3), for bonds, notes, and other evidences of  
398 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other  
399 evidences of indebtedness:

400 (i) issued by one or more of the following entities:

401 (A) a state other than this state;

402 (B) the District of Columbia;

403 (C) a political subdivision of a state other than this state; or

404 (D) an agency or instrumentality of an entity described in Subsections (1)(b)(i)(A)  
405 through (C); and

406 (ii) to the extent the interest is not included in federal taxable income on the taxpayer's  
407 federal income tax return for the taxable year;

408 (c) any portion of federal taxable income for a taxable year if that federal taxable  
409 income is derived from stock:

410 (i) in an S corporation; and

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

412 (d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan,  
413 from the account of a resident or nonresident estate or trust that is an account owner as defined  
414 in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount  
415 withdrawn from the account of the resident or nonresident estate or trust that is the account  
416 owner:

417 (i) is not expended for:

418 (A) higher education costs as defined in Section 53B-8a-102.5; or

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

422 (ii) is:

423 (A) subtracted by the resident or nonresident estate or trust:

424 (I) that is the account owner; and

425 (II) on the resident or nonresident estate's or trust's return filed under this chapter for a

426 taxable year beginning on or before December 31, 2007; or

427 (B) used as the basis for the resident or nonresident estate or trust that is the account

428 owner to claim a tax credit under Section 59-10-1017; and

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

430 (2) There shall be subtracted from unadjusted income of a resident or nonresident

431 estate or trust:

432 (a) the interest or a dividend on obligations or securities of the United States and its

433 possessions or of any authority, commission, or instrumentality of the United States, to the

434 extent that interest or dividend is included in gross income for federal income tax purposes for

435 the taxable year but exempt from state income taxes under the laws of the United States, but

436 the amount subtracted under this Subsection (2) shall be reduced by any interest on

437 indebtedness incurred or continued to purchase or carry the obligations or securities described

438 in this Subsection (2), and by any expenses incurred in the production of interest or dividend

439 income described in this Subsection (2) to the extent that such expenses, including amortizable

440 bond premiums, are deductible in determining federal taxable income;

441 (b) income of an irrevocable resident trust if:

442 (i) the income would not be treated as state taxable income derived from Utah sources

443 under Section 59-10-204 if received by a nonresident trust;

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

445 (iii) no assets of the trust were held, at any time after January 1, 2003, in another

446 resident irrevocable trust created by the same settlor or the spouse of the same settlor;

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

448 (v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the

449 settlor or any other person is treated as an owner of any portion of the trust under Subtitle A,



450 Subchapter J, Subpart E of the Internal Revenue Code; and  
451 (vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on  
452 indebtedness incurred or continued to purchase or carry the assets generating the income  
453 described in this Subsection (2)(b), and by any expenses incurred in the production of income  
454 described in this Subsection (2)(b), to the extent that those expenses, including amortizable  
455 bond premiums, are deductible in determining federal taxable income;  
456 (c) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or  
457 nonresident estate or trust derived from a deceased Ute tribal member:  
458 (i) during a time period that the Ute tribal member resided on homesteaded land  
459 diminished from the Uintah and Ouray Reservation; and  
460 (ii) from a source within the Uintah and Ouray Reservation;  
461 (d) any amount:  
462 (i) received by a resident or nonresident estate or trust;  
463 (ii) that constitutes a refund of taxes imposed by:  
464 (A) a state; or  
465 (B) the District of Columbia; and  
466 (iii) to the extent that amount is included in total income on that resident or nonresident  
467 estate's or trust's federal tax return for estates and trusts for that taxable year;  
468 (e) the amount of a railroad retirement benefit:  
469 (i) paid:  
470 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et  
471 seq.;  
472 (B) to a resident or nonresident estate or trust derived from a deceased resident or  
473 nonresident individual; and  
474 (C) for the taxable year; and  
475 (ii) to the extent that railroad retirement benefit is included in total income on that  
476 resident or nonresident estate's or trust's federal tax return for estates and trusts;  
477 (f) an amount:

478 (i) received by a resident or nonresident estate or trust if that amount is derived from a  
479 deceased enrolled member of an American Indian tribe; and

480 (ii) to the extent that the state is not authorized or permitted to impose a tax under this  
481 part on that amount in accordance with:

482 (A) federal law;

483 (B) a treaty; or

484 (C) a final decision issued by a court of competent jurisdiction;

485 (g) the amount that a qualified nongrantor charitable lead trust deducts under Section  
486 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on the  
487 qualified nongrantor charitable lead trust's federal income tax return for estates and trusts for  
488 the taxable year;

489 (h) any fiduciary adjustments required by Section 59-10-210; ~~and~~

490 (i) an amount received:

491 (i) for the interest on a bond, note, or other obligation issued by an entity for which  
492 state statute provides an exemption of interest on its bonds from state individual income tax;

493 (ii) by a resident or nonresident estate or trust;

494 (iii) for the taxable year; and

495 (iv) to the extent the amount is included in federal taxable income on the taxpayer's  
496 federal income tax return for the taxable year[-];

497 (j) for a taxable year beginning on or after January 1, 2019, but beginning on or before  
498 December 31, 2019, only:

499 (i) the amount of any FDIC premium paid or incurred by the resident or nonresident  
500 estate or trust that is disallowed as a deduction for federal income tax purposes under Section  
501 162(r), Internal Revenue Code, on the resident's or nonresident estate's or trust's 2018 federal  
502 income tax return; plus

503 (ii) the amount of any FDIC premium paid or incurred by the resident or nonresident  
504 estate or trust that is disallowed as a deduction for federal income tax purposes under Section  
505 162(r), Internal Revenue Code, for the taxable year; and

506 (k) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC  
507 premium paid or incurred by the resident or nonresident estate or trust that is disallowed as a  
508 deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the  
509 taxable year.

510 (3) Notwithstanding Subsection (1)(b), interest from bonds, notes, and other evidences  
511 of indebtedness issued by an entity described in Subsections (1)(b)(i)(A) through (D) may not  
512 be added to unadjusted income of a resident or nonresident estate or trust if, as annually  
513 determined by the commission:

514 (a) for an entity described in Subsection (1)(b)(i)(A) or (B), the entity and all of the  
515 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on  
516 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

517 (b) for an entity described in Subsection (1)(b)(i)(C) or (D), the following do not  
518 impose a tax based on income on any part of the bonds, notes, and other evidences of  
519 indebtedness of this state:

520 (i) the entity; or

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

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

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

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

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

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

528 (i) may not:

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

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

531 subtraction described in Subsection (2)(c); or

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

533 (ii) shall:

534 (A) provide for the implementation of the subtraction described in Subsection (2)(c);

535 (B) be in writing;

536 (C) be signed by:

537 (I) the governor; and

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

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

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

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

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

547 (d) For purposes of Subsection (2)(c) and in accordance with Title 63G, Chapter 3,  
548 Utah Administrative Rulemaking Act, the commission may make rules:

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

551 (ii) that are substantially similar to how adjusted gross income derived from Utah  
552 sources is determined under Section [59-10-117](#).

553 **Section 4. Retrospective operation.**

554 This bill has retrospective operation for a taxable year beginning on or after January 1,  
555 2019.